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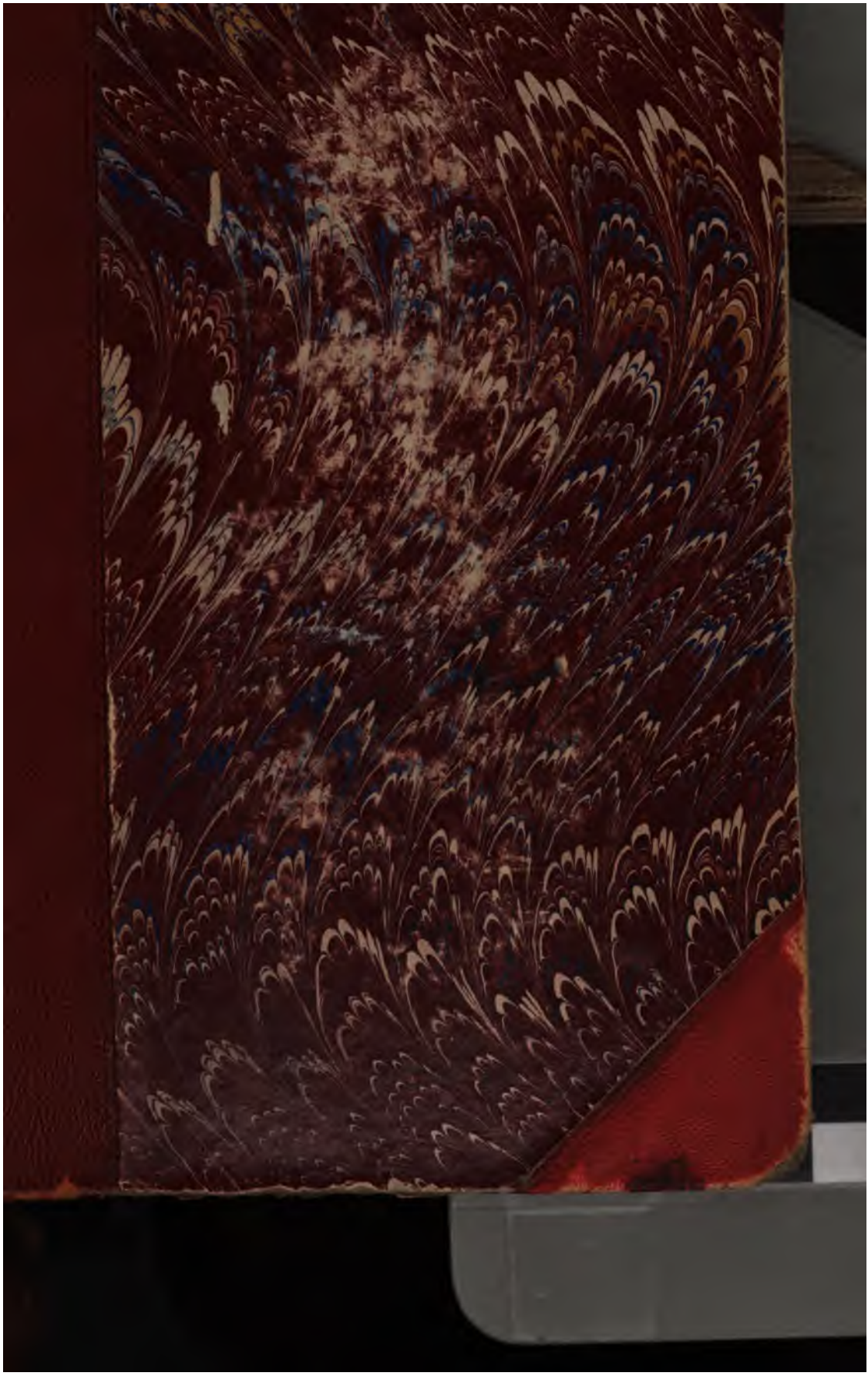

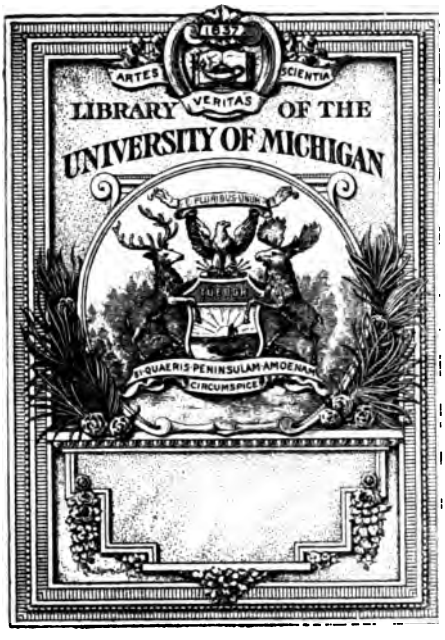
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# HAMILTON'S WORKS.

VOL. IV.

# THE WORKS

OF

# ALEXANDER HAMILTON;

COMPRISING

## HIS CORRESPONDENCE,

AND

## HIS POLITICAL AND OFFICIAL WRITINGS,

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JOHN C. HAMILTON,

AUTHOR OF "THE LIFE OF HAMILTON."

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# CABINET PAPERS.

## HAMILTON TO WASHINGTON.

NEW-YORK, May 5, 1789.

SIR:

In conformity to the intimation you were pleased to honor me with on . . . . . evening last, I have reflected upon the etiquette proper to be observed by the President, and now submit the ideas which have occurred to me on the subject.

The public good requires, as a primary object, that the dignity of the office should be supported.

Whatever is essential to this ought to be pursued, though at the risk of partial or momentary dissatisfaction. But care will be necessary to avoid extensive disgust or discontent. Men's minds are prepared for a pretty high tone in the demeanor of the executive, but I doubt whether for so high a tone as in the abstract might be desirable. The notions of equality are yet, in my opinion, too general and too strong to admit of such a distance being placed between the President and other branches of the government as might even be consistent with a due proportion. The following plan will, I think, steer clear of extremes, and involve no very material inconveniences.

I. The President to have a levee day once a week for receiving visits; an hour to be fixed at which it shall be under-

stood that he will appear, and consequently that the visitors are to be previously assembled.

The President to remain half an hour, in which time he may converse cursorily on indifferent subjects, with such persons as shall invite his attention, and at the end of that half hour disappear. Some regulation will be hereafter necessary to designate those who may visit.

A mode of introduction through particular officers will be indispensable. No visits to be returned.

II. The President to accept no invitations, and to give formal entertainments only twice or four times a year, the anniversaries of important events in the Revolution. If twice, the day of the declaration of independence, and that of the inauguration of the President, which completed the organization of the Constitution, to be preferred; if four times, the day of the treaty of alliance with France, and that of the definitive treaty with Britain to be added. The members of the two houses of the legislature; principal officers of the government; foreign ministers and other distinguished strangers only to be invited. The numbers form in my mind an objection; but there may be separate tables in separate rooms. This is practised in some European courts. I see no other method in which foreign ministers can, with propriety, be included in any attentions of the table which the President may think fit to pay.

III. The President, on the levee days, either by himself or some gentleman of his household, to give informal invitations to family dinners on the days of invitation. Not more than six or eight to be invited at a time, and the matter to be confined essentially to members of the legislature and other official characters. The President never to remain long at table.

I think it probable that the last article will not correspond with the ideas of most of those with whom your Excellency may converse; but on pretty mature reflection, I believe it will be necessary to remove the idea of too immense an inequality, which I fear would excite dissatisfaction and cabal. The thing may be so managed as neither to occasion much waste of time nor to infringe on dignity.

It is an important point to consider what persons may have access to your Excellency on business. The heads of departments will, of course, have this privilege. Foreign ministers of some descriptions will also be entitled to it. In Europe, I am informed, ambassadors only have direct access to the chief magistrate. Something very near what prevails there would, in my opinion, be right. The distinction of rank between diplomatic characters requires attention, and the door of access ought not to be too wide to that class of persons. I have thought that the members of the Senate should also have a right of *individual* access on matters relative to the *public administration*. In England and France peers of the realm have this right. We have none such in this country, but I believe that it will be satisfactory to the people to know that there is some body of men in the state who have a right of continual communication with the President. It will be considered a safeguard against secret combinations to deceive him.

I have also asked myself, Will not the Representatives expect the same privilege, and be offended if they are not allowed to participate with the Senate? There is sufficient danger of this to merit consideration. But there is a reason for the distinction in the Constitution. The Senate are coupled with the President in certain executive functions, treaties, and appointments. This makes them in a degree his constitutional counsellors, and gives them a *peculiar* claim to the right of access. On the whole, I think the discrimination will be proper and may be hazarded.

I have chosen this method of communication because I understood your Excellency that it would be most convenient to you. The unstudied and unceremonious manner of it will, I hope, not render it the less acceptable. And if, in the execution of your commands, at any time I consult frankness and simplicity more than ceremony or profession, I flatter myself you will not on that account distrust the sincerity of my cordial wishes for your personal happiness, and the success of your administration.

I have the honor to be, with the highest respect,

Your Excellency's most obedient and humble servant.

WASHINGTON TO HAMILTON.

NEW-YORK, May 5, 1789.

DEAR SIR:

I beg you to accept my unfeigned thanks for your friendly communications of this date, and that you will permit me to entreat a continuation of them as occasions may arise.

The manner chosen for doing it is most agreeable to me. It is my wish to act right; if I err, the head and not the heart shall, with *justice*, be chargeable.

With sentiments of sincere esteem and regard,

I am, dear Sir,

Your obed't serv't,

GEO. WASHINGTON.

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WASHINGTON TO HAMILTON.

25th September, 1789.

DEAR SIR:

From a great variety of characters who have made a tender of their services for *suitable offices*, I have selected the following. If Mr. Jay and you will take the further trouble of running them over to see if among them there can be found one who, under *all circumstances*, is more eligible for the post-office than Col. O——, I shall be obliged to you both for your opinion thereon by eleven o'clock. Another paper, which is inclosed, will show how the appointments stand to this time. And that you may have the matter *fully* before you, I shall add that it is my *present* intention to nominate Mr. Jefferson for Secretary of State, and Mr. Edmund Randolph as Attorney General, though their acceptance is problematical, especially the latter.

Yours, sincerely,

GEO. WASHINGTON.

## HAMILTON TO WILLIAM SHORT.

NEW YORK, October 7, 1789.

SIR:

I think it probable you will have learnt, through other channels, before this reaches you, my appointment as Secretary of the Treasury of the United States. In this capacity the debt due from us to France, will, of course, constitute one of the objects of my attention.

Except with regard to a few laws of immediate urgency, respecting commercial imposts and navigation, the late session of Congress was wholly occupied in organizing the government. A resolution, however, passed the House of Representatives declarative of their opinion that an adequate provision for the support of the public credit was a matter of high importance to the honor and prosperity of the United States; and instructing me to prepare and report a plan for that purpose at their next session.

In this state of things you will readily perceive that I can say nothing very precise with regard to the provision to be made for discharging the arrearages due to France. I am, however, desirous that it should be understood that proper attention will be paid to the subject on my part; and I take it for granted that the national legislature will not fail to sanction the measures which the faith and credit of the United States require in reference to it. In addition to this I shall only remark that it would be a valuable accommodation to the government of this country if the Court of France should think fit to suspend the payment of the instalments of the principal due and to become due, for five or six years from this period, on the condition of effectual arrangements for the punctual discharge of the interest which has accrued and shall accrue. But in giving this intimation it is not my intention that any request should be made to that effect. I should be glad that the thing might come about in the form of a voluntary and unsolicited offer; and that some indirect method may be taken to communicate the idea where it would be of use

it should prevail. It may not be amiss that you should know that I have hinted the matter in the inclosed private letter to the Marquis de Lafayette, in forwarding which I request your particular care.

I have the honor to be, Sir,

Your obedient and humble servant,

ALEXANDER HAMILTON,

*Secretary of the Treasury.*

WILLIAM SHORT, *Charge d'Affaires*, Paris.

P. S.—Since writing the above, I have, in a private and unofficial manner, broken the matter to the Count de Moustier; and I have reason to conclude he will promote what is desired.

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### HAMILTON TO WASHINGTON.

NEW-YORK. Oct. 20, 1789.

SIR:

Agreeably to your desire, I sit down to commit a few lines to the post.

Nothing worth particular mention has occurred since your departure, except a report brought by Mr. Keane from South Carolina, that Mr. McGillivray, the Indian chief, has, after a short conference, left our commissioners, declaring that what they suggested was only a repetition of the old story, and inadmissible, or something to this effect. It is added that the lower Creeks appeared, notwithstanding, willing to go into a treaty, but the upper ones declined it. General Knox, who has particularly conversed with Mr. Keane, will doubtless give you a more accurate statement of what he brings. It seems, however, that he has his intelligence at second or third hand.

P. S. I have just seen a letter from a private gentleman of considerable intelligence now in North Carolina, who gives an ill picture of the prospect there, respecting the adoption of the Constitution.

SHORT TO HAMILTON.

PARIS, Nov. 30, 1789.

SIR:

The letter of October the 7th, which you did me the honor to write me, was delivered two days ago by Mr. McCartey, and yesterday I received the duplicate by Count de Moustier. Some time before the debt of the United States to France had been brought into view by M. Necker, in a memorial which he delivered to the National Assembly on the subject of their finances, and which I inclosed in my No. 10 to Mr. Jay. Although it is stated there that a proposition was on foot for negotiating a loan in Amsterdam on the security of our debt, I was informed that it was in agitation also to sell the debt. Knowing well that if a sale did take place, it would be on terms onerous to France and injurious to the credit of the United States, I thought myself authorized by the circumstance to present this matter to the view of the minister in a light in which I knew he had not seen it. He then told me what were the reasons which had induced him to listen to this proposition from Amsterdam, let me see clearly that the rise of our credit there was unknown to him, and gave me reason to believe that he should do nothing farther in that business. As the effect of that negotiation would only have been for the advantage of the house in Amsterdam, and prejudicial to the interests of France and credit of the United States, I hope the measures I took will not be disapproved. Soon after Count de Moustier arrived, and sent the same time a renewal of the proposition from Amsterdam, in which the houses there had united the bankers of the United States, in hopes by that means of carrying their plan into execution; the bankers however withdrew as soon as they learned from those who had seen Count de Moustier, that "he was instructed by Congress to oppose any negotiation of that kind." They had from the beginning been averse to the negotiation, and gave in to it only from an apprehension that it would otherwise be effected without them.

Another company, of which Mr. Parker of Boston is the

organ, presents itself, as made a day or two ago—another proposition to the minister—the nature of it is, to pay the amount of our debt in bonds due by France to the lenders of Amsterdam. As they pay bonds already due, and are to receive our debt, which is not yet demandable, they require that the arrears of interest which we owe should be ceded to them by France. They offer me, in this case, to subscribe to the condition of putting off the instalments due, or to become due for five or six years—interest to begin from the present time. As this would square perfectly with your wishes, and would not injure the credit of the United States, since they pay their full debt to France (the interest which she yields being considered as a discount for ready money), I shall not oppose the negotiation if the minister thinks proper to enter into it. I rather think, however, he will not, as the extreme and pressing exigencies of the present crisis may induce him to keep our debt, as the best means, and perhaps the only means, of commanding cash in a foreign country; by it, he is sure of raising money at Amsterdam, should he be induced to make the sacrifices he is asked. Nothing but necessity, however, will induce him to do it.

In the case that no negotiation should take place, then I think it probable that Count de Moustier will be able to effect what you desire. As he enters into it with zeal, and as you desire, with much propriety, that the proposition should come from France, rather than be solicited by us, it will be best to let him act in it. I shall take care, however, to lose no opportunity of inducing the minister to come into your view as of himself. M. de Moustier tells me he has already spoken to M. de Montmorin on the subject, who has referred him entirely to M. Necker.

Long before you receive this letter you will have seen Mr. Jefferson, and received from him information that may induce you perhaps to adopt other views respecting our debt to France. The bankers of the United States still repeat to me the same assurances which they gave Congress in their letter of August last, and which they reiterated to Mr. Jefferson before his departure. It is useless to add observations on the effect which that measure

would operate in our favor on the minds of an assembly who are new-modelling this country, and must soon influence its political and commercial relations with others—an assembly who, whilst they feel a real distress in their finances, are told by different members, in the course of debate, that the debt of the United States cannot be counted on with any certainty, either for present or future relief. As soon as I see what turn the negotiations mentioned above, or the proposition to be made by M. de Moustier, in which the Marquis de Lafayette will do whatever shall be required of him, will take, I will do myself the honor of writing you again. In the mean time, I beg you to be assured, sir, of the readiness with which I shall at all times be disposed to carry into execution your views, and of the sentiments of profound respect and attachment with which I have the honor to be,

Sir, your most obedient, and
Most humble servant,
W. SHORT.

The Hon. Mr. HAMILTON.

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SHORT TO HAMILTON.

PARIS, Jan. 28, 1790.

SIR:

I had the honor of addressing you a letter on the 30th of November last, in answer to yours of the 7th of October. In it I mentioned in what manner our debt to France had become an object of ministerial consideration before the arrival of Count de Moustier, who was charged with your letter, and the influence which his arrival had on some of those who were negotiating with the minister. Although I knew from your letter that he was not charged with the powers which he had mentioned to several, yet I did not think proper to contradict it, as he was endeavoring to operate what I thought for the advantage of the United States. Since that time, the proposals made by different

persons to the minister on the subject of our debt have been of two sorts. I mentioned them in my letters to Mr. Jay, and begged the favor of him to communicate it to you, not being willing to trouble you before something definitive was done. This, however, being deferred longer than I had supposed possible after what I had heard M. Montmorin say on the proposition now before the minister, and it being not improbable that the delay may still continue, I have thought it my duty to inform you of it.

The offer now before the minister is made by Mr. G. Morris and Mr. Parker of Boston. It is, to pay the full amount of the American debt (capital and interest), in French funds which produce an annual interest equal to that of the American debt after the interest in arrear is added to the capital; and also to oblige themselves, after they shall have deposited the French funds in the minister's hands, to receive them from him again, and give him in their stead, for a certain part of them to be agreed on, cash agreeable to their present value. This last article is to enable the minister to raise a certain sum of money on the American debt, or rather on the French funds given for the American debt, in the case of public exigencies requiring it. It is certain the minister was determined to have accepted the offer, and has been prevented only by the want of confidence in the pecuniary abilities of those who made it. He asked security, and they replied that no house could or would give security for a sum of nearly forty millions of livres; they desired that he should retain the American obligations as his security, and should deliver them only as he received their value in the French stocks. It seems he did not choose to commence such a negotiation except with some house of established reputation, and this probably that his own might not be committed in the case of the contract not being carried into full execution. Mr. Morris is, I believe, now in correspondence with the bankers of the United States in order to engage them to join him in this offer. One of them, who resides at Paris, is much disposed to engage in it; the others, I believe, think differently. Thus, sir, stands the affair at present. It comes to my knowledge as a private person. I have thought it

best, throughout the whole of these negotiations, to take the least part possible in them, as it will leave the most entire liberty to the decisions of Congress, whose ratification will certainly be considered as one of the conditions of the contract.

It is useless, after what I have said, to add that nothing has been done by me on the subject of delaying the instalments and arrears of interest agreeably to your desire. As I know Count de Moustier is desirous of doing whatever he supposes agreeable to the United States, and at the same time may prove to the minister their confidence in him, I think this negotiation better in his hands than any other, and also suppose it more conformable to your idea that the arrangement should be effected by his means than mine. He has told me that he had no doubt he should get M. Necker to make the offer of delay on the conditions and in the manner you desired. He added, also, what I think not so certain, that he had put a stop to the negotiation for the purchase of the American debt. Since that time I have had a conversation with M. Montmorin, which convinced me that if any house of extensive and established credit should make the same offer with that of Mr. Morris, that it would be accepted without hesitation. On the whole, however, I think you may consider it as certain, either that the debt will be purchased by a company who will subscribe to your proposals, or that the minister will make an offer of what you desire.

I have obtained from the Farmers General a return of the vessels and cargoes which arrived in France from the United States under the premium of the last year. Supposing it may contribute as a datum to the calculations which you will necessarily be induced to make on the American commerce, I do myself the honor, sir, of forwarding it to you. My letters to Mr. Jay long ago will have made known the continuation of this premium to the first of July next, a like return at that period will be easily obtained. A late letter from Bordeaux informs me that several vessels have already arrived there from the United States with flour and wheat of the last crop.

I beg leave to congratulate you, sir, on the return of happiness and unexampled prosperity to our country, and on the effect

which it has already produced in the dispositions of Europe towards us,—my ardent wishes for their long continuance are as sincere as the assurances of those sentiments of profound respect and attachment, with which I have the honor to be, Sir,

Your most obedient
and most humble servant,
W. SHORT.

To ALEXANDER HAMILTON.

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## HAMILTON TO WILLINK AND CO., AMSTERDAM.

TREASURY DEPARTMENT, May 7th, 1790.

GENTLEMEN:

Triplicates of your letter of the 25th of January last have duly come to hand.

As the success of the negotiations for the purchase of the debt due from the United States to France would have been an unwelcome circumstance, I learn with pleasure that it had not taken place.

The distinguished zeal you have in so many instances shown for the interests of this country, entitles you, upon all occasions, to a favorable interpretation of the motives by which you are actuated, and is calculated to inspire a disposition to co-operate in your arrangements, though without previous authority, as far as circumstances will justify. Nor should I be apprehensive that a sanction to the step you have taken, would form an inconvenient precedent for the future.

But the delays naturally incident to deliberations on a matter of the first consequence, the road to which had not been made easy by the antecedent state of things, having hitherto suspended any definitive resolutions concerning the public debt, I am not now in a situation to speak explicitly in regard to the measure you have undertaken. I can only say, that the United States will stand in need of the aid of loans abroad, and that I expect the requisite provision for making them upon solid and conse-

quently advantageous terms, will shortly be concluded upon; in which case, you will immediately hear from me.

P. S. You have herewith triplicate of my letter of the 7th of April. The first and second of the bills therein mentioned have been forwarded by the British packet Antelope, Captain Curtiss, and by the Catherine, Captain Bull, bound for Amsterdam, and I hope will get duly to hand.

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### HAMILTON TO WASHINGTON.

1790.

The Secretary of the Treasury respectfully begs leave to submit to the President of the United States copies of a letter from Messrs. Wilhem and Jan Willink, and Nicholas and Jacob Van Staphorst and Hubbard, of the 25th day of January last, and of an answer thereto, of the 7th day of May following.

The President will perceive that the last mentioned letter was formed upon a plan not to discourage the progress of the loan which had been set on foot, and yet to leave a final determination upon it open.

The undertaking that loan, without previous authority, was irregular, and, in that view, exceptionable, though the motives assigned for it have considerable force as they respect the credit of the United States; and so far as they may be supposed to have really operated, afford a plausible apology for the measure.

As far, however, as the giving a sanction to it might serve as a precedent, it would not be free from objection; for it certainly would consist neither with the dignity nor the interest of the government to encourage its agents in the practice of employing its credit in unauthorized loans.

But as an acceptance of the loan may be accompanied with a prohibition of similar attempts hereafter, which would doubtless have the effect of preventing them, it is submitted as the opinion of the Secretary, that the irregularity of the proceeding ought

not to preclude such acceptance, if the loan itself be in other respects desirable; and the following considerations appear in his judgment to render it so. The terms are probably as advantageous as the present agitations of Europe, which must necessarily create an unusual demand for money, authorize an expectation of obtaining.

A sum of one hundred and seventy-two thousand dollars will be wanting at the commencement of the ensuing year, to discharge the interest which will then fall due on the Dutch loans, which it is essential to the credit of the United States should be paid, and the timely payment of which could with difficulty be accomplished in any other way. There was on the 21st of March last due to Spain, for principal and interest of her advances and loans, the sum of two hundred and forty thousand and eight dollars and eighty-nine cents; and to France there will be due at the end of the present year, for arrears of interest and certain instalments of the principal of her loans, a sum little short of three millions eight hundred thousand dollars.

Powerful considerations of different kinds, which will readily occur to the mind of the President, urge to exertions to discharge these demands. The Minister of the Finances of France has, through the charge d'affaires of the United States at that court, *solicited* that the money arising from the loan in question, of which he had been apprised, might be applied in part payment of the debt due to that nation. Its peculiar situation at the present juncture contains an appeal to the sensibility, as well as to the policy and honor of this country, in favor of that requisition.

If these reasons appear to the President sufficient to induce his sanction to the loan in question, it will remain to consider under what act it will be most expedient to authorize its being made, whether that of the 4th or that of the 12th of the present month, or whether it may not be advisable to authorize it partly under one and partly under the other.

It is conceived that the business may easily take the latter form, if deemed eligible; and this is recommended by the consideration that it will contribute in a degree to all the purposes which require to be promoted.

If two-thirds of the sum should be borrowed on account of the twelve millions, and the remaining third on account of the two millions, the next half year's interest in Holland may be discharged, the arrears of interest on the debt due to Spain may be paid off, a respectable payment may be made to France as a prelude to more considerable ones, and a sum of consequence to the operation, would remain towards the reduction of our debt and supporting our funds in conformity to the intention of the last mentioned act.

All which is humbly submitted.

ALEXANDER HAMILTON,
*Secretary of the Treasury.*

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TREASURY DEPARTMENT, May 28, 1790.

The Secretary of the Treasury conceives it to be his duty most respectfully to represent to the President of the United States, that there are, in his judgment, objections of a very serious and weighty nature to the resolutions of the two houses of Congress of the twenty-first instant, concerning certain arrears of pay, due to the officers and soldiers of the lines of Virginia and North Carolina.

The third of these resolutions directs, that in cases where *payment* has not been made to the original claimant in person, or to his representative, it shall be made to the original claimant, or to such person or persons only as shall produce a power of attorney duly attested by *two justices* of the peace of the county, in which such person or persons reside, authorizing him or them to receive a certain specified sum.

By the laws of most if not all the States, claims of this kind are in their nature assignable for a valuable consideration; and the assignor may constitute the assignee his attorney or agent to receive the amount. The import of every such assignment is a contract, express or implied, on the part of the assignor, that the assignee shall receive the sum assigned to his own use. In

aking it no precise form is necessary, but any instrument competent to conveying with clearness and precision the sense of the parties, suffices; there is no need of the co-operation of any justice of the peace, or other magistrate whatever.

The practice of the Treasury and of the public officers in other departments, in the adjustment and satisfaction of claims upon the United States, has uniformly corresponded with the rules of that law.

A regulation, therefore, having a retrospective operation, and prescribing with regard to past transactions new and unknown requisites, by which the admission of claims is to be guided, is an infraction of the rights of individuals, acquired under pre-existing laws, and a contravention of the public faith, pledged by the course of public proceedings. It has consequently a tendency not less unfriendly to public credit, than to the security of property.

Such is the regulation contained in the resolution above referred to. It defeats all previous assignments not accompanied with a *power of attorney* attested by *two justices* of the peace of the *county* where the assignor resides; a formality, which, for obvious reasons, cannot be presumed to have attended any of them, and which does not appear to have been observed with respect to those upon which application for payment has hitherto been made.

It is to be remarked that the assignee has no method of compelling the assignor to perfect the transfer by a new instrument, in conformity to the rule prescribed; if even the existence of such a power, the execution of which would involve a legal controversy, could be a satisfactory cause for altering by a new law that state of things, which antecedent law and usage had established between the parties.

It is, perhaps, too questionable, whether an assignee, however equitable his pretensions were, could, under the operation of the provision which has been recited, have any remedy whatever for the recovery of the money or value which he may have paid to the assignor.

It is not certain that a legislative act, decreeing payment to a

different person, would not be a legal bar; but if the existence of such a remedy were certain, it would be but a very inconclusive consideration. The assignment may have been a security for a precarious or desperate debt, which security will be wrested from the assignee, or it may have been a composition between an insolvent debtor and his creditor, and the only resource of the latter: or the assignor may be absent and incapable either of benefiting by the provision, or of being called to an account. And in every case the assignee would be left to the casualty of the ability of the assignor to repay; to the perplexity, trouble, and expense of a suit at law. In respect to the soldiers, the presumption would be, in the greater number of cases, that the pursuit of redress would be worse than acquiescence in the loss. To vary the risks of parties, to supersede the contracts between them; to turn over a creditor without his consent from one *debtor* to *another*, to take away a right to a *specific thing*, leaving only the chance of a remedy for retribution, are not less positive violations of property than a direct confiscation.

It appears from the debates in the House of Representatives, and it may be inferred from the nature of the proceeding, that a suggestion of fraud has been the occasion of it. Fraud is certainly a good objection to any contract, and where it is properly ascertained invalidates it. But the power of ascertaining it is the peculiar province of the Judiciary Department. The principles of good government conspire with those of justice to place it there. 'Tis there only that such an investigation of the fact can be had, as ought to precede a decision. 'Tis there only the parties can be heard, and evidence on both sides produced; without which *surmise* must be substituted to *proof*, and *conjecture* to *fact*.

This, then, is the dilemma incident to legislative interference. Either the legislature must erect itself into a court of justice, and determine each case upon its own merits, after a full hearing of the allegations and proofs of the parties; or it must proceed upon vague suggestions, loose reports, or at best upon partial and problematical testimony, to condemn in the gross and in the dark, the fairest and most unexceptionable claims, as well as

those which may happen to be fraudulent and exceptionable. The first would be an usurpation of the judiciary authority, the last is at variance with the rules of property, the dictates of equity, and the maxims of good government.

All admit the truth of these positions as general rules. But when a departure from it is advocated for any particular purpose, it is usually alleged that there are exceptions to it, that there are certain extraordinary cases, in which the public good demands and justifies an extraordinary interposition of the legislature.

This doctrine in relation to extraordinary cases is not to be denied; but it is highly important that the nature of those cases should be carefully distinguished.

It is evident that every such interposition, deviating from the usual course of law and justice, and infringing the established rules of property, which ought as far as possible to be held sacred and inviolable, is an overleaping of the ordinary and regular bounds of legislative discretion; and is in the nature of a resort to first principles. Nothing, therefore, but some urgent public necessity, some impending national calamity, something that threatens direct and general mischief to the society, for which there is no adequate redress in the established course of things, can, it is presumed, be a sufficient cause, for the employment of so extraordinary a remedy. An accommodation to the interests of a small part of the community, in a case of inconsiderable magnitude, on a national scale, cannot, in the judgment of the Secretary, be entitled to that character.

If partial inconveniences and hardships occasion legislative interferences in private contract, the intercourses of business become uncertain; the security of property is lessened, the confidence in government destroyed or weakened.

The Constitution of the United States interdicts the States individually, from passing any law impairing the obligation of contracts. This, to the more enlightened part of the community, was not one of the least recommendations of that Constitution. The too frequent intermeddlings of the State legislatures, in relation to private contracts, were extensively felt, and seriously lamented; and a constitution which promises a preventive, was,

by those who felt and thought in that manner, eagerly embraced. Precedents of similar interferences by the legislature of the United States, cannot fail to alarm the same class of persons, and at the same time to diminish the respect of the State legislatures for the interdiction alluded to. The *example* of the national government in a matter of this kind, may be expected to have a far more powerful influence than the precepts of the Constitution.

The present case is that of a particular class of men, highly meritorious indeed, but inconsiderable in point of numbers, and the whole of the property in question less than fifty thousand dollars, which, when distributed among those who are principally to be benefited by the regulation, does not exceed twenty-five dollars per man. The relief of the individuals, who may have been subjects of imposition, in so limited a case, seems a very inadequate cause for a measure which breaks in upon those great principles, that constitute the foundations of property.

The eligibility of the measure is more doubtful, as the courts of justice are competent to the relief which it is the object of the resolution to give, as far as the fact of fraud or imposition, or undue advantage, can be substantiated. It is true that many of the individuals would probably not be in a condition to seek that relief from their own resources; but the aid of government may in this respect be afforded, in a way which will be consistent with the established order of things. The Secretary, from the information communicated to him, believing it to be probable that undue advantages had been taken, had conceived a plan for the purpose, of the following kind: That measures should be adopted for procuring the appointment of an agent or attorney, by the original claimants, or if deceased, by their legal representatives; that payment of the money should be deferred until this had been effected; that the amount of the sums due should then be placed in the hands of the proper officer for the purpose of payment; that a demand should be made upon him, on behalf of the original claimants, by their agent, and as a like demand would of course be made by the assignees, that the parties should be informed that a legal adjudication was necessary to ascertain the validity of their respective pretensions; and that in

this state of things the Attorney General should be directed either to prosecute or defend for the original claimants, as should appear to him most likely to insure justice. A step of this kind appeared to the Secretary to be warranted and dictated, as well by a due regard to the defenceless situation of the parties who may have been prejudiced, as by considerations resulting from the propriety of discouraging similar practices.

It is with reluctance and pain the Secretary is induced to make this representation to the President. The respect which he entertains for the decisions of the two houses of Congress; the respect which is due to those movements of humanity towards the supposed sufferers, and of indignation against those who are presumed to have taken an undue advantage; an unwillingness to present before the mind of the President, especially at the present juncture, considerations which may occasion perplexity or anxiety, concur in rendering the task peculiarly unwelcome. Yet the principles which appear to the Secretary to have been invaded, in this instance, are, in his estimation, of such fundamental consequence to the stability, character, and success of the government, and at the same time so immediately interesting to the department intrusted to his care, that he feels himself irresistibly impelled by a sense of duty, as well to the Chief Magistrate as to the community, to make a full communication of his impressions and reflections.

He is sensible that an inflexible adherence to the principles contended for must often have an air of rigor, and will sometimes be productive of particular inconveniences. The general rules of property, and all those general rules which form the links of society, frequently involve in their ordinary operation, particular hardships and injuries; yet the public order and the general happiness require a steady conformity to them. It is perhaps always better that partial evils should be submitted to, than that principles should be violated. In the infancy of our present government, peculiar strictness and circumspection are called for, by the too numerous instances of relaxations, which in other quarters, and on other occasions, have discredited our public measures.

The Secretary is not unaware of the delicacy of an opposition to the resolutions in question, by the President, should his view of the subject coincide with that of the Secretary; yet he begs leave on this point to remark, that such an opposition in a case, in which a small part of the community only is directly concerned, would be less likely to have disagreeable consequences than in one which should affect a very considerable portion of it; and the prevention of an ill precedent, if it be truly one, may prove a decisive obstacle to other cases of greater extent and magnitude, and of a more critical tendency. If the objections are as solid as they appear to the Secretary to be, he trusts they cannot fail, with the sanction of the President, to engage the approbation, not only of the generality of considerate men, but of the community at large. And if momentary dissatisfaction should happen to exist in particular parts of the Union, it is to be hoped it will be speedily removed by the measures which, under the direction of the President, may be pursued, for obtaining the same end in an unexceptionable mode; for the success of which the Secretary will not fail to exert his most zealous endeavors.

It is proper that the President should be informed, that if objections should be made by him, they will in all probability be effectual; as the resolutions passed in the Senate with no greater majority than twelve to ten.

The Secretary feels an unreserved confidence in the justice and magnanimity of the President; that whatever may be his view of the subject, he will at least impute the present representation to an earnest and anxious conviction in the mind of the Secretary, of the truth and importance of the principles which he supports, and of the inauspicious tendency of the measure to which he objects, co-operating with a pure and ardent zeal for the public good, and for the honor and prosperity of the administration of the Chief Magistrate.

### HAMILTON TO SHORT.

TREASURY DEPARTMENT, May 29, 1790.

SIR:

I am honored with your letters of the 28th and 30th, which did not come to my hands till the 27th instant.

The conduct you have prescribed to yourself in regard to the negotiations concerning the debt of the United States, appears to be very prudent and judicious, and such as will give the United States a convenient election of the measures to be pursued in future.

Previous to the receipt of your favor, I had written to the commissioners upon the business of their letter of the 25th of January, a duplicate of which you were so good as to inclose to me. Considering their zeal, exertions, and general deportment on former occasions, as entitling them to the regard of government, I wrote them in a manner corresponding with those impressions, yet so as to leave the United States at full liberty in their final determinations on the late transaction, and particularly guarding against the ill consequences that would result from establishing a precedent of this nature. It is possible, when our arrangements shall be completed, that the United States may find it convenient to confirm this transaction, but in the mean time it appeared most advisable to treat it as I have mentioned.

I am to acknowledge my obligation to you for the return of the vessels and cargoes from the United States that have arrived in the ports of France. It will be on many occasions a very useful document.

With cordial satisfaction, sir, I reciprocate your congratulations on the late happy change in the situation of our country, and I feel great pleasure in receiving information so authentic that it has influenced favorably the dispositions of the European nations. A prosecution of the same just and salutary principles, it may be reasonably hoped, will give permanency to our present advantages, and secure a larger portion of those benefits which the United States are qualified to produce.

### JEFFERSON TO HAMILTON.

June 12, 1790.

Thomas Jefferson has the honor to send to the Secretary of the Treasury a rough draft of a Report on the subject of measures, weights, and coins, in order that the Secretary may be able to accommodate his plan of a MINT to the very small alteration of the money unit proposed in this Report.

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### HAMILTON TO JEFFERSON.

June 13, 1790.

The Secretary of the Treasury has the honor to acknowledge the reception of the Report of the Secretary of State on the subject of measures, weights, and coins. There is no view which he has taken of the matter which stands opposed to the alteration of the money unit as at present contemplated by the regulations of Congress, either in the way suggested in the Report or in that mentioned in the note of yesterday. And there are certainly strong reasons to render a correspondency desirable. The idea of a general standard among nations, as in the proposal of the Bishop d'Autun, seems full of convenience and order.

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### HAMILTON TO WASHINGTON.

June 18, 1790.

The Secretary of the Treasury, having, in consequence of the Act for the establishment and support of light-houses, directed his inquiries to that object, begs leave most respectfully to submit the result to the President of the United States of America.

*New Hampshire.*

In this State is only one light-house, situated on a point of land on the island of Newcastle, three miles from Portsmouth, without the walls of the fort which commands the entrance of the Piscataqua river. It is under the superintendence of a commissary, who is captain of the fort; and is, at present, in good repair. The annual expense of maintaining it is estimated at $217 20.

*Massachusetts.*

In this State are six light-houses, at the following places, viz.:

Boston,
Cape Ann,
Plymouth,
Plum Island,
Nantucket,
Portland.

| | |
|---|---|
| The whole expense attending the support of these establishments, including the officers' salaries, is estimated at . . . . . | $5736 00 |
| The officers appointed for their management are, at Boston, Captain Thomas Knox, with an annual salary of . . . . . | $400 00 |
| At Cape Ann, Mr. Samuel Houston, with ditto, . | 400 00 |
| At Plymouth, the widow of the late General Thomas, with ditto, . . . . . | 233 50 |
| At Plum Island, Mr. Lowell, with ditto, . . . | 220 00 |
| At Nantucket, Mr. Paul Pinkham, with ditto, . . | 250 00 |

At Portland, the building not being perfectly completed, no person is yet appointed to superintend it.

Exclusive of the above, there is an officer styled a commissary, who has the charge of supplying the whole. This office is now filled by Mr. —— Divens, but what allowance he has for executing it, the Secretary has not yet ascertained.

When the building at Portland is completed, the expense of maintaining it, and the allowance of the commissary superintend-

ing the whole, will probably make the total amount of the light-house establishment in the State of Massachusetts about $6000 per annum.

*Connecticut.*

In this State there is only one light-house, which is situated at the port of New London; it is built of stone, and has lately been repaired. In the month of May last, the General Assembly ordered some buoys to be fixed in the harbor for the safety of the navigation, but nothing has been yet done in consequence of the Act.

The annual expense of this establishment is estimated at $450.

At New Haven there is a pier in the harbor, which is private property, and a buoy at the entrance; two other buoys are judged necessary for the safety of the navigation.

*New-York.*

At New-York there is a light-house, and was lately a beacon at Sandy Hook, the annual expense of which (exclusive of an allowance to the wardens of the port) is about $1500.

The number of the wardens is four, who have (besides other duties incident to their office) the charge of supplying and superintending this establishment. They have each an allowance of one dollar and a half per day when employed in visiting the works, exclusive of their provisions, &c. The master warden is Mr. Thomas Randall. The beacon has been recently blown down, and will require to be replaced; which can be done at an inconsiderable expense.

*In New-Jersey.*

There is no light-house, nor any establishment of that nature.

*In Pennsylvania.*

There is a light-house at Cape Henlopen, and several buoys, beacons, and piers, for the security of the navigation on the bay and river Delaware. The annual expense of these establishments, which have been under the care of a board of wardens

of the port of Philadelphia, is estimated by the present master warden at $4133.

This office is now filled by Capt. William Allibone.

*In Delaware.*

There is no light-house nor other establishment of this nature, those on the bay and river Delaware answering for that State.

*In Maryland and Virginia.*

There are at present no light-houses, nor any beacons, buoys, &c., for the security of vessels navigating the Bay of Chesapeake. In consequence of certain acts of the legislatures of these States, styled the compact laws, considerable sums have been collected heretofore, by a tax upon tonnage, for raising a fund for the purpose of building light-houses, &c., at Cape Henry. The Commissioners appointed by the two States for superintending this work, expended on it previous to the war, in collecting materials, &c., at between 7 and £8000, Virginia currency; but it is presumed that no considerable benefit can be now derived from this expenditure. The present expense for erecting this light-house, &c. (as estimated by one of the commissioners appointed on the part of the State of Virginia) is computed at $34,076 66.

The annual expense of maintaining it would probably not exceed $2000.

*In South Carolina.*

There is one light-house, and the necessary buoys and beacons, for the security of the navigation into that harbor. The light-house is in good condition, but the buoys and beacons want repair. The annual expense attending this establishment is computed at $1457.

The officer having charge of them at present, is Mr. Thomas Hollingsby, who is recommended by the commissioners of pilotage for that harbor as a person perfectly qualified for the business. His present salary is $257 14.

*Georgia.*

No information has been received from that State on this subject, although the same inquiries have been made there as in other States.

To this statement of the substance of the information, which he has received respecting the several establishments in question, the Secretary begs leave to add, that most of the persons who have been singly charged with the care of any of them, have been recommended as proper to be continued, and that no objection has been made to any; and that in the two instances in which that case has been committed to boards (as in the cases of Pennsylvania and New-York), the principals of those boards are well recommended.

It appears to the Secretary, that it will be expedient to conform to the plan, which exists in Massachusetts, and to substitute individuals to boards, where the business has been committed to them; and he thinks it probable that a reappointment of the persons who have been heretofore employed, will be most likely to produce an eligible choice, and to give satisfaction; and also that the allowances heretofore made (as far as they apply) will be a good standard for those to be established. As, however, it is the intention of the legislature that the expenditures for these establishments should be made by contract, which, from the nature of the objects, must generally be conducted on the spot, it seems advisable, for this and other reasons which will occur, that in the distant States there should be some other persons than the immediate superintendents of the light-houses connected with them in the business.

As a temporary arrangement for this purpose, the Secretary would propose, that the particular superintendents in the several States, except Pennsylvania and New-York, should be put under the direction of the collectors of the principal ports:

In New-Hampshire, of the Collector of Portsmouth.

In Massachusetts, of the Collector of Boston.

In Connecticut, of the Collector of New London.

In South Carolina, of the Collector of Charleston.

Georgia is omitted, from the want of information.

Pennsylvania and New-York are excepted, because their contiguity to the seat of government will place the particular superintendents sufficiently under the eye of the Secretary of the Treasury.

Pursuant to the foregoing ideas, the Secretary submits the following nominations.

| | | |
|---|---|---|
| At Boston, Capt. Thomas Knox, with a salary of | $400 | per an. |
| At Cape Ann, Mr. Samuel Houston, with do. of | 400 | " |
| At Plymouth, the widow of the late General Thomas, with do. of | 240 | " |
| At Plum Island, Mr. —— Lowell, with do. of | 220 | " |
| At Nantucket, Mr. Paul Pinkham, with do. of | 250 | " |
| At New London (a person to be nominated by General Huntington), with do. of | 100 | " |
| At New-York, Mr. Thomas Randall, with do. of | 400 | " |
| At Philadelphia, Mr. William Allibone, with do. of | 500 | " |
| At Charleston, South Carolina, Mr. Thomas Hollingby, with do. of | 260 | " |

No account having been received at the Treasury of the completion of the light-house erecting at Portland in Massachusetts, the Secretary has not included it in the present nomination; he has also omitted the port of New Haven in Connecticut, as the pier and buoys in that harbor appear to be private property, not that of the State.

In the States of Virginia and Maryland, it appears from what is above stated in this Report, that there are no establishments in those States, although materials have formerly been collected for building a light-house at Cape Henry. As the Act of the seventh of August last relative to the support of light-houses, &c., renders it necessary to obtain a cession of a proper place near the entrance of the Chesapeake previous to the erection of a light-house in that quarter, the Secretary submits it to the consideration of the President, whether it would not be advisable to determine on the place best adapted for such an establishment, in order that an application may be made to the supreme exe-

cutive of the State under whose jurisdiction the same may be, for a cession of the same.

It will be observed, that the Secretary has not mentioned a person for taking charge of the light-house at New Hampshire. The present commissary (as before stated) is the captain of the fort, near whose walls the light-house is situated. The collector of the port of Portsmouth is of opinion that the care of it should be intrusted to the captain of the fort, but has said nothing as to the qualifications of Mr. Clap for this office; or of the allowance made to him on this account by the State: the Secretary therefore submits the propriety of deferring any appointment for this place till further inquiry is made on these points, to which immediate attention will be paid.

With respect to the duties of the general superintendents, as the Act contemplates the maintaining, supporting, and erecting the establishments to be by contract, the Secretary is of opinion, that in all cases where the nature of the service or supply will possibly admit of the same being so done with advantage to the public, the superintendents should be authorized to enter into a contract for the same, subject to the ratification of the Secretary of the Treasury, with the approbation of the President; and where the same cannot be so done, that the general superintendents shall direct the execution of the necessary business at as low a rate as possible.

This line the Secretary is induced to suggest, as he finds, on an investigation of the different objects of expenditure accruing under these establishments, that cases will sometimes occur (especially in the repair of works and replacing buoys, &c.) where it will not be possible to establish any principles of calculation for doing the same by contract; in which case the party contracting (should such be found) would either demand an extravagant allowance for securing him against the possibility of risk, or endeavor to avoid the same by executing his contract in an inefficient manner.

All which is respectfully submitted.

ALEXANDER HAMILTON,

*Secretary of the Treasury.*

### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, June 18, 1790.

The Secretary of the Treasury has the honor respectfully to submit to the President of the United States, for his consideration, a contract (with the letter that accompanied it) between William Allibone, superintendent of the light-house, beacons, buoys, and public piers on the river and bay of Delaware, and Abraham Hargis, keeper of the light-house at Cape Henlopen. The yearly salary of £130, although it appears high, is found, on examination, the same as was allowed to this person by the State of Pennsylvania. The allowance of £13 for the several supplies and services specified, does not appear unreasonable.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, June 21, 1790.

The Secretary of the Treasury has the honor respectfully to submit to the President of the United States, for his approbation, the inclosed contract for timber, boards, nails, and workmanship, for a beacon to be placed near the light-house on Sandy Hook; the terms of which, he begs leave to observe, are, in his opinion, favorable to the United States.

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### HAMILTON TO WASHINGTON.

*Memorandum of the substance of a Communication made on Thursday, the Eighth of July,* 1790, *to the Subscriber, by Major Beckwith, as by direction of Lord Dorchester.*

Major Beckwith began by stating that Lord Dorchester had directed him to make his acknowledgments for the politeness

which had been shown in respect to the desire he had intimated to pass by New-York in his way to England; adding that the prospect of a war between Great Britain and Spain would prevent or defer the execution of his intention in that particular. He next proceeded to observe, that Lord Dorchester had been informed of a negotiation commenced on the other side of the water, through the agency of Mr. Morris, mentioning, as the subscriber understood, principally by way of proof of Lord Dorchester's knowledge of the transaction, that Mr. Morris had not produced any regular credentials, but merely a letter from the President directed to himself; that some delays had intervened, partly on account of Mr. Morris's absence on a trip to Holland, as was understood; and that it was not improbable these delays and some other circumstances, may have impressed Mr. Morris with an idea of backwardness on the part of the British ministry. That his lordship, however, had directed him to say that an inference of this sort would not, in his opinion, be well founded, as he had reason to believe that the cabinet of Great Britain entertained a disposition not only towards a friendly intercourse, but towards an alliance with the United States. Major Beckwith then proceeded to speak of the particular cause of the expected rupture between Spain and Britain, observing it was one in which all commercial nations must be supposed to favor the views of Great Britain. That it was therefore presumed, should a war take place, that the United States would find it to be their interest to take part with Great Britain rather than with Spain.

Major Beckwith concluded with producing a letter, signed "Dorchester," which letter contained ideas similar to those he had expressed, though in more guarded terms, and without any allusion to instructions from the British cabinet. This letter, it is now recollected, hints at the non-execution of the treaty of peace on our part.

On the subscriber remarking the circumstance that this letter seemed to speak only the sentiments of his lordship, Major Beckwith replied, that whatever reasons there might be for that course of proceeding in the present stage of the business, it was

to be presumed that his lordship knew too well the consequence of such a step, to have taken it without a previous knowledge of the intentions of the cabinet.

Major Beckwith afterwards mentioned that Lord Dorchester had heard with great concern of some depredations committed by some Indians on our western frontier. That he wished it to be believed that nothing of this kind had received the least countenance from him. That, on the contrary, he had taken every proper opportunity of inculcating upon the Indians a pacific disposition towards us; and that as soon as he had heard of the outrages lately committed, he had sent a message to endeavor to prevent them. That his lordship had understood that the Indians alluded to were a banditti, composed chiefly or in a great part of Creeks or Cherokees, over whom he had no influence, intimating at the same time that these tribes were supposed to be in connection with the Spaniards.

He stated, in the next place, that his lordship had been informed that a Captain Hait, in our service, and a Mr. Nimble, and indeed some persons in the treaty at Fort Harman, had thrown out menaces with regard to the posts on the frontier, and had otherwise held very intemperate language; which, however, his lordship considered rather as effusions of individual feelings, than as the effects of any instruction from authority.

A. HAMILTON.

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### HAMILTON TO WASHINGTON.

July 22, 1790.

On Thursday, the 22d instant, I had a second interview with Major Beckwith, in which I spoke to him nearly as follows.

I have made the proper use of what you said to me at our last interview.

As to what regards the objects of a general nature mentioned by you, though your authority for the purpose from Lord Dorchester is out of the question, and though I presume from his

lordship's station and character, and the knowledge he appears to have of what is passing on the other side of the water, with regard to Mr. Morris, that the step he has taken through you is conformable to the views of your Cabinet, and not without its sanction; yet you are no doubt sensible that the business presents itself in a shape which does not give the proper authenticity to that fact, and is wholly without formality. You must also be sensible that there is a material difference between your situation and that of Mr. Morris. His credentials, though not formal, proceed from the proper source. Yours are neither formal nor authoritative.

This state of things will, of course, operate on what I am going to say on the subject. As to what relates to friendship between Great Britain and the United States, I conceive myself warranted in declaring that there is in the government of this country a sincere disposition to concur in obviating with candor and fairness all ground of misunderstanding which may now exist in reference to the execution of the late Treaty of peace, and in laying the foundation of future good understanding, by establishing liberal terms of commercial intercourse.

As to alliance, this opens a wide field. The thing is susceptible of a vast variety of forms. 'Tis not possible to judge what would be proper or what could be done, unless *points* were brought into view. If you are in condition to mention particulars, it may afford better ground of conversation.

I stopped here for an answer.

Major Beckwith replied, that he could say nothing more precise than he had already done.

That being the case, (continued I,) I can only say, that the thing is in too general a form to admit of a judgment of what may be eventually admissible or practicable. If the subject shall hereafter present itself to discussion in an authentic and proper shape, I have no doubt we shall be ready to converse freely upon it. And you will naturally conclude that we shall be disposed to pursue whatever shall appear under all circumstances to be our interest, as far as may consist with our honor. At present I would not mean either to raise or repress expectation.

Major Beckwith seemed to admit that as things were circumstanced nothing explicit could be expected, and went on to make some observations, which I understood as having for object to sound whether there existed any connection between Spain and us; and whether the questions with regard to the Mississippi were settled.

Perceiving this, I thought it best to avoid an appearance of mystery, and to declare without hesitation,

"That there was no particular connection between Spain and the United States, within my knowledge, and that it was matter of public notoriety, that the questions alluded to were still unadjusted."

The rest of our conversation chiefly consisted of assurances on my part, that the menaces which had been mentioned by him as having been thrown out by some individuals with regard to the western posts were unauthorized, proceeding probably from a degree of irritation which the detention of the posts had produced in the minds of many; and of a repetition, on his part, of the assurances which he had before given of Lord Dorchester's disposition to discourage Indian outrages.

Something was said respecting the probable course of military operations, in case of a war between Britain and Spain, which Mr. Beckwith supposed would be directed towards South America; alleging, however, that this was mere conjecture on his part. I hinted cautiously our dislike of any enterprise on New Orleans.

A. HAMILTON.

NOTE BY A. H.—Mr. Jefferson was privy to this transaction. The views of the government were to discard suspicion that any engagements with Spain, or intentions hostile to Great Britain, existed; to leave the ground in other respects vague and open, so as that in case of rupture between Great Britain and Spain, the United States ought to be in the best situation to turn it to account, in reference to the disputes between them and Great Britain on the one hand, and Spain on the other.

### WASHINGTON TO HAMILTON.

UNITED STATES, Aug. 27, 1790.

Provided the dispute between Great Britain and Spain should come to the decision of arms, from a variety of circumstances (individually unimportant and inconclusive, but very much the reverse when compared and combined), there is no doubt in my mind, that New Orleans and the Spanish posts above it on the Mississippi, will be among the first attempts of the former, and that the reduction of them will be undertaken by a combined operation from Detroit.

The *consequences* of having so formidable and enterprising people as the British on both our flanks and rear, with their navy in front, as they respect our western settlements, which may be seduced thereby, as they regard the security of the Union and its commerce with the West Indies, are too obvious to need enumeration.

What then should be the answer of the Executive of the United States to Lord Dorchester, in case he should apply for permission to march troops through the territory of said States from Detroit to the Mississippi? What notice ought to be taken of the measure, if it should be undertaken without leave, which is the most probable proceeding of the two?

The opinion of the Secretary of the Treasury is requested in writing upon the above statement.

G. W.

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### JEFFERSON TO WASHINGTON.

Aug. 28, 1790.

*Opinion on the questions stated in the President's note of Aug.* 27, 1790.

I am so deeply impressed with the magnitude of the dangers which will attend our government if Louisiana and the Floridas

be added to the British empire, that in my opinion we ought to make ourselves parties in the *general war* expected to take place, should this be the only means of preventing the calamity.

But I think we should defer this step as long as possible; because war is full of chances, which may relieve us from the necessity of interfering; and if necessary, still the later we interfere the better we shall be prepared.

It is often, indeed, more easy to prevent the capture of a place, than to retake it. Should it be so, in the case in question; the difference between the two operations of preventing and retaking, will not be so costly as two, three, or four years more of war.

So that I am for preserving neutrality as long, and entering into the war as late, as possible.

If this be the best course, it decides, in a good degree, what should be our conduct, if the British ask leave to march troops through our territory, or march them without leave.

It is well enough agreed, in the law of nations, that for a neutral power to give or refuse permission to the troops of either belligerent party to pass through their territory is no breach of neutrality, provided the same refusal or permission be extended to the other party.

If we give leave of passage, then, to the British troops, Spain will have no just cause of complaint against us, provided we extend the same leave to her when demanded.

If we refuse (as indeed we have a right to do), and the troops should pass notwithstanding, of which there can be little doubt, we shall stand committed; for either we must enter immediately into the war, or pocket an acknowledged insult in the face of the world; and one insult pocketed soon produces another.

There is, indeed, a middle course, which I should be inclined to prefer. That is, to avoid giving any answer. They will proceed, notwithstanding; but to do this under our silence will admit of palliation, and produce apologies, from military necessity; and will leave us free to pass it over without dishonor, or to make it a handle of quarrel hereafter, if we should have use for it as such. But if we are obliged to give an answer, I think the

occasion not such as should induce us to hazard that answer which might commit us to the war at so early a stage of it; and therefore that the passage should be permitted.

If they should pass without having asked leave, I should be for expressing our dissatisfaction to the British court, and keeping alive an altercation on the subject, till events should decide whether it is most expedient to accept their apologies, or profit of the aggression as a cause of war.

TH. JEFFERSON.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Aug. 28, 1790.

The Secretary of the Treasury has the honor respectfully to submit to the President of the United States, for his determination, a request from the Naval Officer of the district of New-York.

The Secretary humbly remarks, that it appears desirable, as far as possible, to avoid absences of such important officers for so long a duration, but that if the nature of the reasons should induce the President to grant the request, the Naval Officer will no doubt leave his public business in the hands of a deputy, of competent abilities, for whom he will be responsible.

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### HAMILTON TO WILLIAM SHORT.

TREASURY DEPARTMENT, Aug. 29, 1790.

SIR:

You are already apprised of the loan which was commenced in the United Netherlands, by Messrs. Wilhelm and Jan Willink and Nicholas and Jacob Van Staphorst and Hubbard, with a view on their part to the service of the United States, and that

the same has been submitted to our government for their acceptance. On due consideration of the circumstances of that loan and the views with which the above gentlemen have undertaken it, I have determined, in consequence of power vested in me, to accept and ratify the same. I have accordingly authorized and empowered Messrs. Willinks, Van Staphorsts and Hubbard to complete and carry the said loan into full effect.

My present object is to inform you, that I have destined a million and a half of florins, as soon as that sum shall be received by the above gentlemen on account of that loan, as a payment through you to France, and I have given them directions accordingly. It is my wish that you take the earliest opportunity to inform yourself with certainty that they are in cash from the loan to pay your drafts, and that you then proceed to possess yourself of the funds and to make payment. You will, no doubt, avail the United States of all proper advantages in making the negotiation of the above sum which the course of exchange between Paris and Amsterdam will admit. It is probable that bills will command a premium that will more than indemnify our treasury for the charges of the loan, so far as the amount of this payment to France. It may be proper, on this occasion, that you express the satisfaction which the United States feel in giving an earnest of their sincere desire and intention to discharge their pecuniary obligations to France. Referring you to the Secretary of State for instructions with regard to the timing the intended payment,

I have the honor to be, &c.

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### HAMILTON TO WILLIAM SHORT.

TREASURY DEPARTMENT, Sept. 1st, 1790.

SIR:

Two Acts of the Legislature, of the fourth and twelfth of August, of which I inclose you copies, authenticated according to law, empower the President to cause to be borrowed on their

behalf fourteen millions of dollars, subject to certain restrictions and qualifications, to be applied in payment of such part of our foreign debt as shall have become due, and to a new modification of the remainder, if it can be effected upon terms beneficial to the United States. The execution of this authority he has committed immediately to me, and ultimately through me to you; except as to three millions of florins, part of the above sum, of which, as you are informed, a loan has been anticipated by Messrs. Willinks, Van Staphorsts and Hubbard, and of which a confirmation, with correspondent powers, has been sent directly to them. Among the documents which accompany this letter you will find a copy of the commission from the President to me, and a power founded on it from me to you.

It remains for me to give you some indications for your government, conformable to the general tenor of the instructions which I have received from the President, and of which I transmit a copy; premising that it is understood, between the Secretary of State and myself, that you are to proceed to Amsterdam without delay, and to continue there, in the first instance, for a term not less than three months.

A primary and principal object of your attention will be, to acquire as exact knowledge as may be of the footing upon which the different foreign powers who borrow in Holland have usually obtained their loans, since the commencement of our independence, and upon which they at present obtain them; the prices of foreign stock in the Dutch market, including our own; the state of our credit compared with that of other nations; the extent and the conditions to and upon which we shall be likely to borrow in case of war between England and Spain, and in the alternative of our being ourselves at peace or war; the principal houses and brokers concerned in the negotiations of foreign loans; their characters; comparative solidity and influence with

[illegible] is af-

[illegible] lenders.

Most if not all these inquiries will be immediately serviceable to you. They will all be productive of information useful to my department; and I will therefore thank you for successive communications of the result.

One consequence of them to you will be, that they will enable you to judge whether our confidence in our former commissioners or agents ought to be continued, or withdrawn in order to the substitution of others; or, if continued, whether the terms of their agency may not be meliorated; or whether, with their consent, some other house or houses may not be combined with them, with an increase of credit and resource to us.

These, as you will be sensible, are delicate points. They are, however, left to your prudence and discretion, according as facts shall be ascertained to you.

I shall only remark, that changes of public servants ought never to be made but for cogent reasons. If lightly made, they are not only chargeable with injustice and are a symptom of fickleness in the public counsels, but they destroy the motives to good conduct, and, in money concerns especially, are apt to beget a disposition to make the most of possession while it lasts. Circumspection in the present case is also recommended by the consideration that those whom we have heretofore trusted risked themselves and their fortunes upon our affairs, when the doing it was not without serious hazard. This is a reason for permitting them to reap the benefits of our more prosperous days, if they have been faithful and are adequate to the trust. A further reason is, that they are now deeply interested in our funds, and consequently, it is presumable, in our credit. Competition and variance once existed between the house of Willinks and that of the Van Staphorsts; but these appear some time since to have been compromised. The latter have most merit for early exertions, the former are said to be most solid. Their union is desirable for the greater security it affords.

Suggestions of this nature are not dictated by any distrust of the fidelity or good conduct of our former commissioners. As far as I know, they deserve well of us. My object is, in entering upon a new stage of our affairs, to have the ground over which

we have passed well examined, that we may the better judge whether to continue or alter our course.

In the consideration of our foreign debt, it naturally divides itself into two parts; that which is now payable, and that which will be payable hereafter. The first we are bound to discharge as soon as may be, and upon the best terms we can. The last we are not bound to discharge but as the times of payment elapse, and therefore are not called upon to do it unless some positive advantage accrues from it to ourselves. This view of the matter governs the instructions of the President to me, which, of course, regulate mine to you.

You are accordingly to borrow, *on the best terms which shall be found practicable*, within the limitations prescribed by law, such sum or sums as shall be sufficient to discharge as well all instalments or parts of the principal of the foreign debt, which now are due or shall become payable to the end of the year one thousand seven hundred and ninety-one, as all interest and arrears of interest which now are or shall become due in respect to the said debt to the same end of the year one thousand seven hundred and ninety-one. But you shall not extend the amount of the loans which you shall make or cause to be made beyond the sum which shall be requisite for that purpose, unless it can be done upon terms more advantageous to the United States than those upon which the residue of the said debt shall stand or be.

And in order that you may judge what will be due to the end of the year one thousand seven hundred and ninety-one, I refer you to the papers marked A and B, which contain statements of principal and arrears of interest of our foreign loans to that period; and shall, by the next opportunity, send you a copy of the contracts respecting them, from which you will derive a more accurate knowledge of their terms.

You will perceive, by the Act which authorizes the loan for paying off the foreign debt, that there is no other restriction as to the terms except that, in the contracts to be made, the United States shall be left at liberty to reimburse the sum borrowed, within a period not exceeding fifteen years. As this seems to be

the usual period for the reimbursement of moneys borrowed in Holland, that restriction can constitute no embarrassment.

In the second Act there is no restriction as to time of repayment, but there is one as to the rate of interest, which must not exceed five per cent. This, however, I consider as compatible with the allowance of those premiums, commissions and other charges which are customary in ordinary times; and which, I am informed, are, in the aggregate, about four and a half per cent. But the allowance of unusual or extraordinary premiums to obtain loans upon a nominal interest of five per cent., as well because it is a pernicious mode of borrowing as because it would be an invasion of the law, is inadmissible.

If war should continue or become more general in Europe, it is to be apprehended that the demand for money will raise its price upon us, and that loans will not be practicable upon so good terms as in time of peace. The situation of this country, too, authorizes us to expect that as our resources become more unfolded and better understood, we shall be able to borrow upon easier terms than we have at any time heretofore done. On both these accounts it would be very desirable, while we did not *oblige* ourselves to reimburse the principal borrowed in less than fifteen years, commencing at the end of ten, that we could stipulate for a right of reimbursing it sooner, that is to say, either upon giving notice of our intention to do it for a limited time beforehand, or at the end of a short period, say five years. I should consider a stipulation of this kind as a valuable ingredient in your contracts.

I have intimated above the inexpediency of extraordinary premiums to purchase a nominal low rate of interest. Against this error I would particularly guard you. It is sacrificing a real future interest to an *appearance*, at best, to temporary accommodation. A higher rate of interest upon a sum *actually* received, is preferable to a lower rate upon a nominal sum, with large deductions in the first instance, or considerable premiums afterwards; this will be more especially the case if we can reserve a right to repay when we please or after a short period; as we may reasonably contemplate, with the return of peace, a fall of interest.

But every thing of this kind is, after all, matter of calculation, and to be tested by the evidence of figures. I can only, therefore, mean to give you a caution, referring you to that test, and intimating to you this general principle, that the name of a low interest ought not to betray us into giving more for it in the shape of premium or discount than it is worth, and that, as we shall borrow at a time when circumstances will render interest high, we had better pay that interest on *actual value* received, than a lower one on a fictitious value, or for future and exaggerated compensations; reserving, as far as it can be done, the right of paying off at pleasure, or at an early period. The future fall of interest will, in the first case, turn to our advantage, in the last, to our disadvantage.

You will not pass unnoticed the circumstance that the laws contain actual appropriations of very adequate funds for the payment of interest upon the sums you shall borrow. The first act, indeed, after reserving six hundred thousand dollars for the support of government, gives a priority in payment to the foreign debt out of revenues which are calculated upon the estimate of a much larger product. You may confidently assert that the duties hitherto have produced at the rate of one million eight hundred thousand dollars; which alone would leave twelve hundred thousand dollars, as the fund out of which the interest on your loans would be payable. But the augmentations which have been made in the rates are computed to be capable of affording an addition of eight hundred thousand dollars; and I believe the computation to be well founded.

You will also, no doubt, make a proper use in your communications of the actual situation and future prospects of this country. The economical scale of our establishments, civil and military; the comparative smallness of our debt; the reliance which may be had on the stability of our pecuniary arrangements *once made*, from the nature of our government in respect to the mutual checks inherent in its organization; the rapid progression of population and resources to which we may look forward; the actual and probable emigrations occasioned by the troubled state of Europe; the hope that we shall continue in

peace, while other powers are accumulating their debts by new wars; the very favorable situation in which we shall find ourselves at the end of a general war in Europe, if we avoid participating in it, &c., &c. These are topics which ought to have weight in our favor, and, within due limits, may be urged with force and assurance.

With regard to that part of the debt which does not become payable till after the year one thousand seven hundred and ninety-one, you will have observed that nothing is to be done by you in respect to it, unless it can be done upon terms *of advantage* to the United States. However cordial our disposition to come to the pecuniary aid of France in her present affecting and embarrassed condition, in this early stage of our finances we could not in prudence volunteer payments not due by the terms of the contract, especially, too, by the expedient of new *foreign* loans, unless it should be attended with some circumstance of advantage in the operation to ourselves. By this I understand a lower rate of interest.

For according to my speculations on the probable rate of exchange between this country, France, and Holland, and between Holland and France for some years to come, I deem it better (whether our payments proceed directly from hence, or circuitously through Holland) to have to pay a given sum to France, than an equal sum to Holland.

The charges too upon the new loans will be to be taken into the account, and an indemnity for them included in the terms of the operation. Calculating only upon the ordinary ones, it does not appear to me that it would be the interest of the United States to change the form of this debt, unless the rate of interest on the new loans did not exceed four per cent. And I own that, in the present aspect of affairs, I see no ground to expect that loans will be obtained at so low a rate.

If the thing should be possible, it must be on the score of some collateral advantages to the lenders; such, for instance, as their being permitted to pay a part in the *effects* or *stock* of France, as was contemplated in the last negotiations. Whether any arrangement of this nature will be a desirable accommodation to

France; whether persons of real capital, who would not in the execution be obliged to use means prejudicial to the credit of the United States, would be willing to embark in such a plan; whether it would prove an obstacle to other loans which we may have occasion to make for other purposes; are circumstances essential in determining its eligibility, which cannot be known to me, and can only be accurately judged of by one on the spot.

I suggest them as hints to you. In exploring or feeling the ground, you will recollect that propositions of such a nature ought not to come from us. If the thing should be capable of being placed upon a footing conducive to our interests, we ought only to appear to sanction what other parties desire of us. And we should in no event make any movement that may injure our reputation, or place us in the light of a people desirous of making hard bargains at the expense of friends.

Neither can I authorize you to conclude any general arrangement of this nature, without a previous communication of it to me, to be submitted to the consideration of the President; there being a separate instruction from him to me, that no loan shall be opened for more than a million of dollars, and that no new loan shall be undertaken until the preceding one shall have been announced to him, and shall have received his sanction.

This limitation, therefore, in all your proceedings, you will of course attend to, and you will perceive the utility of making the earliest communication of every loan you shall set on foot, in order that you may know the determination of the President before its completion, and be prepared in time to commence another.

It has been suggested that loans may be made with advantage in certain parts of Italy. I do not count on this resource, but I shall be glad to know how far, from inquiry, it shall appear to be an eligible field for an experiment.

With regard to the application of the moneys to be borrowed, you will, from time to time, receive special directions.

The foregoing are the only observations which the time I have will permit me to make. They contain general indications of the course you are to pursue; the rest must be left to your judgment, circumspection, and delicacy. I doubt not you will

be duly impressed with the importance of the trust; how much the interest and reputation of our government are concerned in its proper execution. And I feel a confidence that they will not suffer in your hands.

P. S. I send for your information a copy of my letter to Messrs. Willinks & Co., by which you will perceive the footing on which the provisional loan of three millions of florins is placed.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Sept. 10th, 1790.

SIR:

The public service appearing to require the early establishment of the boats or cutters for the protection of the revenue, agreeably to the provision made by the legislature in their last session, I do myself the honor respectfully to submit to you what has occurred upon that subject.

Cutters from forty to fifty feet keel being deemed by experienced persons the most eligible, my inquiries have been directed to the terms on which a boat of that size may be built in the port of New-York. From the information received, there is reason to expect that ten of those vessels may be procured for the medium sum of one thousand dollars each, provided due care and economy are used in their equipment. To avoid dissatisfaction, it may appear best to build them in different ports of the Union. One may be procured in New Hampshire, and another in Massachusetts, for the coast eastward of Cape Cod; one in Connecticut, for Long Island Sound and the coast adjacent to Rhode Island; one in New-York, for the bays of New-York and Amboy, and the coast adjacent to Sandy Hook; one in Philadelphia, for the bay of Delaware, and the coast adjacent to Capes May and Henlopen; one in Norfolk, and another in Baltimore, for Chesapeake Bay and the coasts adjacent to it; one in North Carolina, for the

sounds and coasts of that State; one at Charleston, for the bays and coasts of South Carolina, and one at Savannah, for the coast of Georgia.

Should this arrangement meet your approbation, the utility of the establishment leads me to request your permission to carry it into immediate execution; or that you will be pleased to direct such other as may appear to you preferable.

There not being sufficient light with regard to characters for officering the cutters destined for the Eastern coasts, particularly Massachusetts, I have written private letters to the collectors of Boston and Portsmouth, on the subject. When their answers arrive, the persons who appear to have most in their favor, from New-York inclusively, eastward, shall be noted for your determinations.

The latest arrivals from Europe bring intelligence of the continuance and increase of warlike preparations by the Courts of Great Britain and Spain, though no declaration of war was known in the seaports of the latter on the 26th of July.

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### HAMILTON TO WASHINGTON.

NEW-YORK, Sept. 15, 1790.

The urgent avocations in which I have been engaged, towards putting in a train of execution the laws of the last session affecting my department, and a desire of reflecting maturely, and giving the reasons for the result of my reflections fully, have caused me to delay longer than I wished the answer to the questions with which you honored me, and I hope will excuse the delay.

The judgments formed, in particular cases, are almost always connected with a general train of ideas in respect to some more comprehensive principles or relations; and I had thought it advisable to lay that train before you, for the better explanation of the grounds of the opinions I now give, or may hereafter

have occasion to give, on the like subjects, in obedience to your commands.

I feel no small regret in troubling you with the perusal of so voluminous a discussion; but as I thought it would be satisfactory to you to have the reasons of the opinions you required fully submitted to your consideration, I conceived it to be more consistent with my duty to risk some intrusion on your time, than to withhold any consideration that appeared to me of weight enough to enter into the determination.

The President of the United States.

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### HAMILTON TO WASHINGTON.

New-York, Sept. 15, 1790.

*Answer to Questions proposed by the President of the United States to the Secretary of the Treasury.*

Question the First.—"What should be the answer of the Executive of the United States to Lord Dorchester, in case he should apply for permission to march troops through the territory of said States, from Detroit to the Mississippi?"

Answer.—In order to a right judgment of what ought to be done in such case, it may be of use previously to consider the following points:

*First.*—Whether there be a right to *refuse* or *consent*, as shall be thought most for the interest of the United States.

*Secondly.*—The consequences to be expected from *refusal* or *consent*.

*Thirdly.*—The motives to the one or to the other.

As to the first point, if it were to be determined upon principle only, without regard to precedents or opinions, there would seem to be no room for hesitation about the right to refuse. The exclusive jurisdiction which every independent nation has over its own territory, appears to involve in it the right of prohibiting to all others the use of that territory in any way disagree-

able to itself, and more especially for any purpose of war, which always implies a degree of danger and inconvenience, with the exception only of cases of necessity.

And if the United States were in a condition to do it without material hazard, there would be strong inducements to their adopting it as a general rule never to grant a passage for a voluntary expedition of one power against another, unless obliged to it by treaty.

But the present situation of the United States is too little favorable to encountering hazards, to authorize attempts to establish rules, however eligible in themselves, which are repugnant to the received maxims or usages of nations.

It is therefore necessary to inquire what those maxims or usages enjoin in the case suggested.

With regard to usage, it has been far from uniform. There are various instances in ancient and modern times of similar permissions being demanded—many, in which they have been granted; others in which they have been refused, and the refusal acquiesced in; but perhaps more in which, when refused, a passage has been forced, and the doing of it has often been deemed justifiable.

Opinions are not more harmonious. Among those who may be considered as authorities on such subjects, Puffendorf and Barbeyrac confine within narrow limits *the right of passage* through neutral territories; while Grotius and Vatel, particularly the former, allow to it greater latitude. Puffendorf treats it not as a natural right, but as derived from compact or concession; especially when the enemy of a neighboring state desires leave to march troops through a neutral country against its neighbor. For it seems (says he) to be a part of *the duty which we owe to our neighbors*, especially such as have been kind and friendly, not to suffer any hostile power to march through our country to their prejudice, *provided we can hinder the design with no great inconvenience to ourselves.* And as it may have a tendency to make our own country the theatre of the war (since the power intended to be attacked may justifiably march within our limits to meet the approaching enemy), he concludes that it is the safest

way of acting in such case, *if we can do it without any considerable prejudice to our own affairs*, to deny the enemy passage, and *actually to oppose him* if he endeavors to force it without our consent. But if we are either too weak to hinder his progress, or must on this score engage in a dangerous war, he admits that the plea of necessity will fairly justify us to our neighbor.

Examples, he adds, have little force on the decision of the question. For, generally, as people have been stronger or weaker, they have required passage with modesty or with confidence, and have in like manner granted or refused it to others.*

Barbeyrac, in his Commentary on Grotius, is still stronger against the right of passage.† He affirms that, even though we have nothing to apprehend from those who desire a passage, we are not therefore obliged in rigor to grant it. It necessarily follows, says he, from the right of property, that the proprietor may refuse another the use of his goods. Humanity, indeed, requires that he should grant that use to those who stand in need of it, when it can be done without any considerable inconvenience to himself; but if he even then refuses it, though he transgresses his duty, he does no wrong, properly so called, *except they are in extreme necessity*, which is superior to all ordinary rules. Thus far, and no further, extends the reserve with which it is supposed the establishment of property is accompanied.

Grotius, on the other hand, expresses himself thus:‡ A free passage ought to be granted to persons where *just occasion* shall require, over any lands, or rivers, or such parts of the sea as belong to any nation; and, after enumerating several examples in support of his position, he concludes that the *middle opinion* is best; to wit, that the liberty of passing ought first to be demanded, and if denied, may be claimed by force. Neither, says he, can it be reasonably objected that there may be suspicion of danger from the passing of a multitude; for one man's right is not diminished by another man's fear. Nor is the fear of provoking that prince against whom he that desires to pass is engaged in a

* Puffendorf's Laws of Nature and Nations, pages 239, 240.

† Note 1 on Book II. Chap. II. § xiii.

‡ Rights of War and Peace, Book II. Chap. II. § xiii. Nos. 1, 2, 3, 4.

*just* war, a sufficient reason for refusing him passage. Nor is it any more an excuse that he may pass another way, for this is what every body may equally allege, and so this right by passing would be entirely destroyed. But it is enough that the passage be requested, without any fraud or ill design, by the nearest and most convenient way. *If*, indeed, he who desires to pass undertakes an *unjust* war, or if he brings people who are my enemies along with him, I *may* deny him a passage; *for in this case* I have a right to meet and oppose him, even in his own land, and to intercept his march. Thus it would seem to be the opinion of Grotius, that a party engaged in a *just* war has a right, of course, to a passage through a neutral territory, which can scarcely, if at all, be denied him, even on the score of danger or inconvenience to the party required to grant it.

But Vatel, perhaps the most accurate and approved of the writers on the laws of nations, preserves a mean between these* different opinions. This is the sum of what he advances: "That an *innocent passage* is *due* to all nations with whom a state is at peace, for troops equally with individuals, and to annoy as well as to avoid an enemy. That the party asking and the party asked are both, in different degrees, judges of the question *when innocent?* That where the party asked has *good reasons* for refusing, he is not under any obligation to grant, and in *doubtful* cases his judgment *ought to be definitive;* but in evident ones, or those in which the harmlessness of the passage is manifest, the party asking may, in the last resort, judge for himself, and after *demand* and *refusal* may force his way. That nevertheless, as it is very difficult for the passage of a powerful army to be absolutely innocent, and still more difficult for its innocence to be apparent, a refusal ought to be submitted to, *except* in those *very rare* cases when it can be shown in the most palpable manner that the passage required is absolutely without danger or inconvenience. And lastly, that this right of passage is only *due* in a war *not materially unjust.*

Perhaps the only inference to be drawn from all this is,

* Book III. Chap. VII. §§ 119, 120, 121, 122, 123.

that there exists in the practice of nations and the dogmas of political writers a certain vague pretension to a right of passage in particular cases, and according to circumstances, which is sufficient to afford to the strong a pretext for claiming and exercising it when it suits their interests, and to render it always dangerous to the weak to refuse, and sometimes not less so to grant it.

It is, nevertheless, a proper inquiry, whether a refusal could be placed on such ground as would give a reasonable cause of umbrage to the party refused, and as in the eye of the world would justify it.

Against the propriety of a refusal are the following circumstances; that there is no connection between us and Spain, which obliges us to it. That the passage asked will be down rivers, and for the most part through an uninhabited wilderness; whence no injury to our citizens or settlements will be apprehended: and that the number of troops to be marched, especially considering the route, will probably not be such, as on their own account, to be a serious cause of alarm. These circumstances may give our refusal the complexion of partiality to Spain, and of indisposition towards Britain, which may be represented as a deviation from the spirit of exact neutrality.

In support of the propriety of a refusal, the following is the only assignable reason: that it is safer for us, to have two powerful, but *rival* nations, bordering upon our two extremities, than to have one powerful nation pressing us on both sides, and in capacity, hereafter, by posts and settlements, to envelop our whole interior frontier.

The good offices of Spain in the late war; the danger of the seduction of our western inhabitants; the probable consequences to the trade of the Atlantic States, are considerations rather to be contemplated as motives, than alleged as reasons.

The first reason, however, is of a nature to satisfy the mind of the justice of a refusal; admitting the authority of the more moderate opinions, which have been cited. And the danger, too, upon the supposition of which it is founded, appears to be obvious enough to vindicate it, in the opinion of the disinterest-

ed part of mankind; little likely as it may be to engage the acquiescence of the party whose wishes would be thwarted by the refusal. It deserves, notwithstanding, to be noticed on this point, that the ground of dissent would not result from the thing itself —that is, the *mere passage*—but from the nature of the *acquisition*, to which it would give facility. This circumstance may somewhat obscure the clearness of the conclusion, that there is a perfect right to refuse.

But upon the whole, there does not appear to be room enough for a scruple about the right, to deter from refusal, if upon examination it shall be found expedient.

Does the right of consenting to the passage stand upon ground equally unexceptionable?

This question Vatel answers in the following manner:* "When I have no reason to refuse the passage, the party against whom it is granted has *no room for complaint*, much less for making it a pretence for war; since I did no more than what the law of nations enjoins. Neither has he any right to require that I should deny the passage, because he is not to hinder me from doing what I think is agreeable to my duty, and *even* on occasion *when I might with justice deny the passage*, it is *allowable* in me *not to make use* of my right; *especially when I should be obliged to support my refusal by my sword.* Who will take upon him to complain of my having permitted the war to be carried into his own country, rather than draw it on myself? It cannot be expected that I should take up arms in his favor, unless obliged to it by a treaty." And Puffendorf admits, as has been before noted, that if we are either *too weak* to hinder his progress, or must on that score engage in a *dangerous* war, the plea of necessity will fairly justify us to our neighbor.

Nothing need be added to reasoning so perspicuous and convincing. It does not admit of a moment's doubt, as a general rule, that a neutral state, unfettered by any stipulation, is not bound to expose itself to a war, merely to shelter a neighbor from the approaches of its enemy. It remains to examine, if

* Vatel, Book III., Chap. vii., Section 127.

there are any circumstances, in our particular case, capable of forming an exception to that rule.

It is not to be forgotten that we received from France, in our late revolution, essential succor, and from Spain valuable countenance, and some direct aid. It is also to be remembered, that France is the intimate ally of Spain, and there subsists a connection by treaty between the former power and the United States.

It might thence be alleged that obligations of gratitude towards those powers require that we should run some risk, rather than concur in a thing prejudicial to either of them, and particularly in favor of that very nation against which they assisted us. And the natural impulse of every good heart will second the proposition, till reason has taught it that refinements of this kind are to be indulged with caution in the affairs of nations.

Gratitude is a word, the very sound of which imposes something like respect. Where there is even an appearance upon which the claim to it can be founded, it can seldom be a pleasing task to dispute that claim. But where a word may become the basis of a political system, affecting the essential interests of the state, it is incumbent upon those who have any concern in the public administration, to appreciate its true import and application.

It is necessary, then, to reflect, however painful the reflection, that gratitude is a duty, a sentiment, which between nations can rarely have any solid foundation. Gratitude is only due to a kindness or service, the predominant object of which is the interest or benefit of the party to whom it is performed. Where the interest or benefit of the party performing is the predominant cause of it, however there may result a debt, in cases in which there is not an immediate adequate and reciprocal advantage, there can be no room for the sentiment of gratitude. Where there is such an advantage, there is then not even a debt. If the motive to the act, instead of being the benefit of the party to whom it is done, should be a compound of the interest of the party doing it and of detriment to some other, of whom he is the enemy and the rival, there is still less room for so noble and

refined a sentiment. This analysis will serve as a test of our true situation, in regard both to France and Spain.

It is not to be doubted, that the part which the courts of France and Spain took in our quarrel with Great Britain, is to be attributed, not to an attachment to our independence or liberty, but to a desire of diminishing the power of Great Britain by severing the British empire. This they considered as an interest of very great magnitude to them. In this their calculations and their passions conspired. For this, they united their arms with ours, and encountered the expenses and perils of war. This has been accomplished; the advantages of it are mutual; and so far the account is balanced.

In the progress of the war* they lent us money, as necessary to its success, and during our inability to pay they have forborne to press us for it. The money we ought to exert ourselves to repay with interest, and as well for the loan of it, as for the forbearance to urge the repayment of the sums which have become due, we ought always to be ready to make proportionate acknowledgments, and when opportunities shall offer, returns answerable to the nature of the service.

Let it be added to this, that the conduct of France in the manner of affording her aid, bore the marks of a liberal policy. She did not endeavor to extort from us, as the price of it, any disadvantageous or humiliating concessions. In this respect, however, she may have been influenced by an enlightened view of her own interest. She entitled herself to our esteem and good will. These dispositions towards her ought to be cherished and cultivated; but they are very distinct from a spirit of romantic gratitude, calling for sacrifices of our substantial interests, preferences inconsistent with sound policy, or complaisances incompatible with our safety.

The conduct of Spain towards us presents a picture far less favorable. The direct aid we received from her during the war was inconsiderable in itself, and still more inconsiderable compared with her faculty of aiding us. She refrained from acknow-

* France has made us one loan since the peace.

ledging our independence; has never acceded to the treaty of commerce made with France, though a right of doing it was reserved to her, nor made any other treaty with us; she has maintained possessions within our acknowledged limits without our consent; she perseveringly obstructs our sharing in the navigation of the Mississippi, though it is a privilege essential to us, and to which we consider ourselves as having an indisputable title. And perhaps it might be added upon good ground, that she has not scrupled to intrigue with leading individuals in the western country, to seduce them from our interests, and to attach them to her own.

Spain therefore must be regarded, upon the whole, as having slender claims to peculiar good will from us. There is certainly nothing that authorizes her to expect we should expose ourselves to any extraordinary jeopardy for her sake. And to conceive that any considerations relative to France ought to be extended to her, would be to set up a doctrine altogether new in politics. The ally of our ally has no claim, as such, to our friendship. We may have substantial grounds of dissatisfaction against him, and act in consequence of them, even to open hostility, without derogating in any degree from what we owe to our ally.

This is so true, that if a war should really ensue between Great Britain and Spain, and if the latter should persist in excluding us from the Mississippi (taking it for granted our claim to share in its navigation is well founded), there can be no reasonable ground of doubt that we should be at liberty, if we thought it our interest, consistently with our present engagements with France, to join Britain against Spain.

How far it might be expedient to place ourselves in a situation which, in case France should eventually become a party in the war, might entangle us in opposite duties on the score of the stipulated guarantee of her West India possessions, or might have a tendency to embroil us with her, would be a mere question of prudential and liberal calculation, which would have nothing to do with the right of taking side against Spain.

These are truths necessary to be contemplated with freedom, because it is impossible to foresee what events may spring up, or

whither our interests may point; and it is very important to distinguish with accuracy how far we are bound, and where we are free.

However vague the obligations of gratitude may be between nations, those of good faith are precise and determinate. Within their true limits, they can hardly be held too sacred. But by exaggerating them, or giving them a fanciful extension, they would be in danger of losing their just force. This would be converting them into fetters, which a nation would ere long become impatient to break, as consistent neither with its prosperity nor its safety. Hence, while it is desirable to maintain with fidelity our engagements to France, it is advisable, on all occasions, to be aware that they oblige us to nothing towards Spain.

From this view of the subject, there does not appear any circumstance in our case capable of forming an exception to the general rule; and, as it is certain that there can hardly be a situation less adapted to war than that in which we now find ourselves, we can, with the greatest sincerity, offer the most satisfactory excuse to Spain for not withholding our consent, if our own interests do not decide us to a contrary course.

The conclusion from what has been said is, that there is a right either to refuse or consent, as shall be judged for the interest of the United States; though the right to consent is less questionable than the right to refuse.

The consequences to be expected from refusal or consent present themselves next to consideration. Those of consent shall be first examined.

An increase of the means of annoying us in the same hands is a certain ill consequence of the acquisition of the Floridas and Louisiana by the British. This will result not only from contiguity to a greater part of our territory, but from the increased facility of acquiring an undivided influence over all the Indian tribes inhabiting within the borders of the United States.

Additional danger of the dismemberment of the western country is another ill consequence to be apprehended from that acquisition. This will arise as well from the greater power of annoying us, as from the different policy which it is likely would

be pursued by that nation, if in possession of the key to the only outlet for the productions of that country. Instead of shutting, they would probably open the door to its inhabitants, and by conciliating their good will on the one hand, and making them sensible on the other of their dependence on them for the continuance of so essential an advantage, they might hold out to them the most powerful temptation to a desertion of their connection with the rest of the United States. The avarice and ambition of individuals may be made to co-operate in favor of those views.

A third ill consequence of that acquisition would be, material injury, in time to come, to the commerce of the Atlantic States. By rendering New Orleans the emporium of the products of the western country, Britain would, at a period not *very* distant, have little occasion for supplies of provisions for their islands from the Atlantic States; and for their European market they would derive from the same source copious supplies of tobacco and other articles now furnished by the Southern States: whence a great diminution of the motives to establish liberal terms of commercial intercourse with the United States collectively.

These consequences are all expressed or implied in the form of the question stated by the President. And as far as our consent can be supposed likely to have influence upon the event, they constitute powerful objections to giving it.

If even it should be taken for granted that our consent or refusal would have no influence either way, it would not even then cease to be disagreeable to concur in a thing apparently so inauspicious to our interests. And it deserves attention, that our concurrency might expose us to the imputation either of want of foresight to discover a danger, or of vigor to withstand it.

But there is almost always in such cases a comparison of evils; and the point of prudence is, to make choice of that course which threatens the fewest or the least, or sometimes the least certain. The consequences of refusal are therefore to be weighed against those of consent.

It seems to be a matter taken for granted by the writers upon the subject, that a refusal ought to be accompanied with a resolu-

tion to support it, if necessary, by the sword; or in other words, to oppose the passage, if attempted to be forced, or to resent the injury, if circumstances should not permit an effectual opposition. This, indeed, is implied in the nature of the thing; for to what purpose refuse, unless it be intended to make good the refusal? or how avoid disgrace, if our territories are suffered to be violated with impunity, after a formal and deliberate prohibition of passage?

There are cases in which a nation may, without ignominy, wink at an infraction of its rights; but this does not appear to be one of them. After having been asked its permission and having refused it, the presumption will be that it has estimated the consequences, calculated its means, and is prepared to assert and uphold its rights. If the contrary of this should turn out to be its conduct, it must bring itself into contempt for inviting insult which it was unable to repel, and manifesting ill will towards a power which it durst not resist. As, on the one hand, there cannot be conceived to be a greater outrage than to pass through our country, in defiance of our *declared* disapprobation; so, on the other, there cannot be a greater humiliation than to submit to it.

The consequence therefore of refusal, if not effectual, must be absolute disgrace or immediate war. This *appears*, at least, to be the alternative.

Whether a refusal would have the desired effect, is at best problematical. The presumption, perhaps, is, that Great Britain will have adverted to the possibility of it; and if, under the uncertainty of what would be our conduct, she should still have resolved on prosecuting the enterprise through our territory, that she will at the same time have resolved, either to ask no questions, or to disregard our dissent. It is not unlikely that the reasoning of the British cabinet will have been to this effect:— If the United States have no predilection for Spain, or if their views of their own interest are not opposed to the acquisition we meditate, they will not withhold their consent; if either the one or the other be the case, it ought to be determined beforehand, whether their enmity be a greater evil, than the projected acqui-

sition a good; and if we do not choose to renounce the one, we must be prepared to meet the other.

A further ill consequence of the refusal, if ineffectual, not *wholly* destitute of weight, is this, that Great Britain would then think herself under less obligation to keep measures with us, and would feel herself more at liberty to employ every engine in her power to make her acquisition as prejudicial to us as possible; whereas, if no impediment should be thrown in the way by us, more good humor may beget greater moderation, and, in the progress of things, concessions securing us may be made, as the price of our future neutrality. An explicit recognition of our right to navigate the Mississippi to and from the ocean, with the possession of New Orleans, would greatly mitigate the causes of apprehension from the conquest of the Floridas by the British.

The consequences of refusal or consent constitute leading motives to the one or to the other; which now claim a more particular discussion.

It has been seen that the ill effects to be apprehended from the conquest of the Spanish territories in our neighborhood are, an increase of the means whereby we may be hereafter annoyed, and of the danger of the separation of the western country from the rest of the Union; and a future interference with the trade of the Atlantic States, in a manner, too, not conducive to the general weal.

As far as there is a prospect that a refusal would be an impediment to the enterprise, the considerations which have been mentioned afford the strongest inducements to it. But if *that* effect of it be doubtful, the force of these inducements is proportionably diminished; if improbable, it nearly ceases. The prospect in this case would be, that a refusal would aggravate instead of preventing the evil it was intended to obviate. And it must be acknowledged that the success of it is, at least, *very doubtful.*

The consideration that our assent may be construed into want of foresight or want of vigor, though not to be disregarded, would not be sufficient to justify our risking a war in our present situation. The cogent reasons we have to avoid a war are too obvi-

ous and intelligible, not to furnish an explanation of and an apology for our conduct in this respect.

Whatever may be the calculations with regard to the probable effect of a refusal, it ought to be predicated upon the supposition that it may not be regarded, and accompanied with a determination to act as a proper attention to national dignity would in such an event dictate. This would be to make war.

For it is a *sound maxim*, that a state had better hazard any calamities than submit tamely to absolute disgrace.

Now it is manifest, that a government scarcely ever had stronger motives to avoid war, than that of the United States at the present juncture. They have much to dread from war; much to expect from peace; something to hope from negotiation, in case of a rupture between Britain and Spain.

We are but just recovering from the effects of a long, arduous, and exhausting war. The people but just begin to realize the sweets of repose. We are vulnerable both by water and land; without either fleet or army. We have a considerable debt in proportion to the resources which the state of things permits the government to command. Measures have been recently entered upon for the restoration of credit, which a war could hardly fail to disconcert, and which, if disturbed, would be fatal to the means of prosecuting it. Our national government is in its infancy. The habits and dispositions of our people are ill suited to those liberal contributions to the treasury, which a war would necessarily exact. There are causes which render war in this country more expensive, and consequently more difficult to be carried on, than in any other. There is a general disinclination to it in all classes. The theories of the speculative, and the feelings of all, are opposed to it. The support of public opinion (perhaps more essential to our government than to any other) could only be looked for in a war evidently resulting from necessity.

These are general reasons against going into war. There are others, of a more particular kind. To the people at large the quarrel would be apt to have the appearance of having originated in a desire of shielding Spain from the arms of Britain. There

are several classes of men to whom this idea would not be agreeable, especially if the Dutch were understood to be in conjunction with the British. All those who were not friendly to our late Revolution would certainly dislike it. Most of the descendants of the Dutch would be unfriendly to it. And let it not be overlooked, that there is still a considerable proportion of those who were firm friends to the Revolution, who retain prepossessions in favor of Englishmen, and prejudices against Spaniards.

In a popular government especially, however prejudices like these may be regretted, they are not to be excluded from political calculations.

It ought also to be taken into the account, that by placing ourselves at this time in a situation to go to war against Great Britain, we embark with the weakest party—with a total uncertainty what accession of strength may be gained—and without making any terms with regard either to succor, indemnity, or compensation.

France is the only weight which can be thrown into the scale, capable of producing an equilibrium. But her accession, however probable, ought not to be deemed absolutely certain. The predominant party there may choose to avoid war as dangerous to their own power. And if even obstacles should not arise from that quarter, it cannot be foreseen to what extent France will be in condition to make efforts. The great body of malcontents comprehending a large proportion of the most wealthy and formerly the most influential class—the prodigious innovations which have been made—the general and excessive fermentation which has been excited in the minds of the people—the character of the prince, or the nature of the government likely to be instituted, as far as can be judged prior to an experiment—do not prognosticate much order or vigor in the affairs of that country for a considerable period to come.

It is possible, indeed, that the enthusiasm which the transition from slavery to liberty may inspire, may be a substitute for the energy of a good administration, and the spring of great exertions. But the ebullitions of enthusiasm must ever be a precarious reliance. And it is quite as possible that the greatness,

and perhaps immaturity, of that transition, may prolong licentiousness and disorder. Calculations of what may happen in France must be unusually fallible, not merely from the yet unsettled state of things in that kingdom, but from the extreme violence of the change which has been wrought in the situation of the people.

These considerations are additional admonitions to avoid, as far as possible, any step that may embroil us with Great Britain. It seems evidently our true policy to cultivate neutrality. This, at least, is the ground on which we ought to stand, until we can see more of the scene, and can have secured the means of changing it with advantage.

We have objects which, in such a conjuncture, are not to be neglected. The Western posts, on one side, and the navigation of the Mississippi, on the other, call for a vigilant attention to what is going on. They are both of importance. The securing of the latter may be regarded in its consequences as essential to the unity of the empire.

But it is not impossible, if war takes place, that by a judicious attention to favorable moments, we may accomplish both by negotiation. The moment, however, we became committed on either side, the advantages of our position for negotiation would be gone. They would even be gone in respect to the party with whom we were in co-operation; for being once in the war, we could not make terms as the condition of entering into it.

Though it may be uncertain how long we shall be permitted to preserve our neutrality, that is not a sufficient reason for departing from it voluntarily. It is possible we may be permitted to persist in it throughout. And if we must renounce it, it is better it should be from necessity than choice; at least till we see a prospect of renouncing with safety and profit. If the government is forced into a war, the cheerful support of the people may be counted upon. If it brings it upon itself, it will have to struggle with their displeasure and reluctance. This difference alone is immense.

The desire of manifesting amity to Spain, from the supposition that our permanent interest is concerned in cementing an

intimate connection with France and Spain, ought to have no influence in the case. Admitting the existence of such an interest, it ought not to hurry us into premature hazards. If it should finally induce us to become a party, it will be time enough when France has become such, and after we shall have adjusted the condition upon which we are to engage.

But the reality of such an interest is a thing about which the best and the ablest men of this country are far from being agreed. There are of this number, who, if the United States were at perfect liberty, would prefer an intimate connection between them and Great Britain as most conducive to their security and advantage; and who are of opinion that it will be well to cultivate friendship between that country and this, to the utmost extent which is reconcilable with the faith of existing engagements: while the most general opinion is, that it is our true policy, to steer as clear as possible of all foreign connection, other than commercial ..... and in this respect to cultivate intercourse with all the world on the broadest basis of reciprocal privilege.

An attentive consideration of the vicissitudes which have attended the friendships of nations, except in a very few instances, from very peculiar circumstances, gives little countenance to systems which proceed on the supposition of a permanent interest to prefer a particular connection. The position of the United States, detached as they are from Europe, admonishes them to unusual circumspection on that point. The same position, as far as it has relation to the possessions of European powers in their vicinity, strengthens the admonition.

Let it be supposed that Spain retains her possessions on our right, and persists in the policy she has hitherto pursued, without the slightest symptom of relaxation, of barring the Mississippi against us; where must this end, and at a period not very distant? Infallibly in a war with Spain, or separation of the Western Country. This country must have an outlet for its commodities. This is essential to its prosperity, and if not procured to it by the United States, must be had at the expense of the connection with them. A war with Spain, when our affairs will have acquired greater consistency and order, will certainly

be to be preferred to such an alternative. In an event of this sort, we should naturally seek aid from Great Britain. This would probably involve France on the opposite side, and effect a revolution in the state of our foreign politics.

In regard to the possessions of Great Britain on our left, it is at least problematical, whether the acquisition of them will ever be desirable to the United States. It is certain that they are in no shape essential to our prosperity. Except, therefore, the detention of our Western posts, (an object, too, of far less consequence than the navigation of the Mississippi,) there appears no necessary source of future collision with that power.

This view of the subject manifests that we may have a more urgent interest to differ with Spain, than with Britain. And that conclusion will become the stronger, if it be admitted, that when we are able to make good our pretensions, we ought not to leave in the possession of any foreign power the *territories* at the mouth of the Mississippi, which are to be regarded as the key to it.

While considerations of this nature ought not to weaken the sense which our Government ought to have of any obligations which good faith shall fairly impose, they ought to inspire caution in adopting a system, which may approximate us too nearly to certain powers, and place us at too great a distance from others. Indeed every system of this kind is liable to the objection, that it has a tendency to give a wrong bias to the Counsels of a Nation, and sometimes to make its own interest subservient to that of another.

If the immediate cause of the impending war between Britain and Spain be considered, there cannot be drawn from thence any inducements for our favoring Spain. It is difficult to admit the reasonableness or justice of the pretensions on her part, which occasions the transactions complained of by Great Britain, and certainly the monopoly, at which these pretensions aim, is entitled to no partiality from any maritime or trading people. Hence considerations, neither of justice or policy, as they respect the immediate cause of the quarrel, incline us towards Spain.

Putting, therefore, all considerations of peculiar good will to

Spain or of predilection to any particular connection out of the question, the argument respecting refusal or consent, in the case supposed, seems to stand thus:

The acquisition of the Spanish territories bordering upon the United States, by Britain, would be dangerous to us. And if there were a good prospect that our refusal would prevent it, without exposing us to a greater evil, we ought to refuse. But if there be a considerable probability that our refusal would be ineffectual, and if being so, it would involve us in war or disgrace, and if positive disgrace is worse than war, and war, in our present situation, worse than the chances of the evils which may befall us from that acquisition, then the conclusion would be that we ought not to refuse. And this appears to be the true conclusion to be drawn from a comprehensive and accurate view of the subject; though first impressions are on the other side.

These reflections also may be allowed to come in aid of it. Good or evil is seldom as great in the reality as in the prospect. The mischiefs we apprehend may not take place. The enterprise, notwithstanding our consent, may fail. The acquisition, if made, may, in the progress of things, be wrested from its possessors. These, if pressed hereafter, (and we are willing to accept it,) may deem it expedient to purchase our neutrality by a cession to us of that part of the territory in question, which borders on the Mississippi, accompanied with a guarantee of the navigation of that river. If nothing of this sort should happen, still the war will necessarily have added millions to the debt of Britain, while we shall be recruiting and increasing our resources and our strength. In such a situation, she will have motives of no inconsiderable force for not provoking our resentment. And a reasonable confidence ought to be reposed in the fidelity of the inhabitants of the Western country; in their attachment to the Union; in their real interest to remain a part of it, and in their sense of danger from the attempt to separate, which, *at every hazard*, ought to be resisted by the United States.

It is also to be kept in view, that the *same* danger, if not to the *same* extent, will exist, should the territories in question *remain in the hands of Spain.*

Besides all this, if a war should ever be deemed a less evil than the neighborhood of the British in the quarter meditated, good policy would still seem to require, as before intimated, that we should avoid putting ourselves in a situation to enter into it, till we had stipulated adequate indemnities and considerations for doing so; that we should see a little further into the unravelment of the plot, and be able to estimate what prospect there would be by our interference of obviating the evil. It deserves a reflection, that if those territories have been once wrested from Spain, she will be more tractable to our wishes, and more disposed to make the concessions which our interests require, than if they never passed into other hands.

A question occurs here, whether there be not a middle course between refusal and consent; to wit, the waiving an answer, by referring the matter to further consideration. But to this there appear to be decisive objections. An evasive conduct in similar cases is never dignified—seldom politic. It would be likely to give satisfaction to neither party—to effect no good—to prevent no ill. By Great Britain it would probably be considered as equivalent to a refusal—as amounting to connivance by Spain—as an indication of timidity by all the world.

It happens that we have a post on the Wabash, down which river the expedition, it is presumable, must go. If the commanding officer at that post has no orders to the contrary, it will be his duty to interrupt the passage of the British troops; if he does, it would seem necessary for them, in order to the safe passage of their boats, with their artillery, stores, provisions, and baggage, to take that post. Here then would be a passage through our territory, not only without our permission, but with the capture of a post of ours, which would be in effect making war upon us. And thus silence, with less dignity, would produce the same ill consequence as refusal.

If, to avoid this, private orders were to be sent to the commanding officer of that post, not to interrupt the passage, his not being punished for his delinquency would betray the fact and afford proof of connivance.

The true alternative seems to be, to refuse or consent: and

if the first be preferred, to accompany it with an intimation, in terms as free from offence as possible, that dispositions will be made to oppose the passage, if attempted to be forced; and accordingly, as far as practicable, to make and execute such dispositions.

If, on the contrary, consent should be given, it may deserve consideration whether it would not be expedient to accompany it with a candid intimation that the expedition is not agreeable to us, but that thinking it expedient to avoid an occasion of controversy, it has been concluded not to withhold assent. There are, however, objections to this mode. In case of consent, an early and frank *explanation should be given* to Spain.

QUESTION THE SECOND.—"What notice ought to be taken of the measure, if it should be undertaken without leave, which is the most probable proceeding of the two?"

If *leave* should be *asked* and *refused*, and the enterprise should be prosecuted without it, the manner of treating it has been anticipated; that is, the passage, if practicable, should be opposed; and if not practicable, the outrage should be resented by recourse to arms.

But if the enterprise should be undertaken without *asking* leave, which is presumed to be the import of the question, then the proper conduct to be observed will depend upon the circumstances.

As the passage contemplated would be by water, and almost wholly through an uninhabited part of the country, over which we have no *actual* jurisdiction, if it were unaccompanied by any violence to our citizens or posts, it would seem sufficient to be content with remonstrating against it, but in a tone that would not commit us to the necessity of going to war; the objections to which apply with full force here.

But if, as it is to be feared will necessarily be the case, our post on the Wabash should be *forced*, to make good their passage, there seems to be no alternative but to go to war with them, unwelcome as it may be. It seems to be this, or absolute and

unqualified humiliation; which, as has been already noticed, is in almost every situation a greater evil than war.

In every event, it would appear advisable immediately to convene the Legislature; to make the most vigorous measures for war; to make a formal demand of satisfaction; to commence negotiations for alliances; and if satisfaction should be refused, to endeavor to punish the aggressor by the sword.

ALEXANDER HAMILTON,
*Secretary of the Treasury.*

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HAMILTON TO WINN.

TREASURY DEPARTMENT, September 18th, 1790.

SIR:

Mr. Justin Foote has delivered at this office a commission from the President of the United States, vesting you with the office of Surveyor of the Port of Winton in North Carolina. This gentleman informed me that he was not charged with any letter of resignation from you, but stated the substance of your verbal communication to him at the time.

Passing over the obligation of every good citizen to deport himself with due respect to the Chief Magistrate, and especially of those to whom he and the Senate may have previously given indications of confidence, which I am persuaded you would not intentionally deviate from, I beg leave to observe, that questions may be raised whether the return of a commission is all that is requisite from gentlemen who decline an appointment to a public trust. Under these circumstances, I find myself constrained to request that you will make known to the President, in a regular way, your intentions as to your late appointment.

WASHINGTON TO HAMILTON.

MOUNT VERNON, 20th September, 1790.

SIR:

In answer to your letter of the 10th instant, relative to the establishment of the boats or cutters for the protection of the revenue, I have to observe, that if there appears to exist a necessity for equipping the whole number therein mentioned, the arrangement for building and stationing them seems judicious, and is to me perfectly satisfactory.

It is my wish, that your inquiries respecting proper characters to command these vessels, may be extended to the States south of Virginia. Mr. Lear can furnish you with the list of applications already made. Two persons, with nearly equal recommendations, have offered themselves, from Philadelphia, Captains Montgomery and Roach. There are several respectable names subscribed in favor of each of these persons; some of them, I believe, in favor of both; such is the facility with which, on certain occasions, recommendations are granted. It would seem, however, that they are both qualified; but, in favor of the former, it is stated, that he now fills a subordinate station in the revenue, which he accepted with a view of being brought into notice when such an appointment as that which he now solicits should be made.

Captain Barney was not at Baltimore when I passed through the city, nor could I learn with certainty whether he wished to receive the appointment or not. But I was informed that he had written, in answer to an intimation made to him by you or one of his friends, on the subject, whence I suppose his wish may be collected.

There is a Mr. Richard Taylor, of this State, an applicant for one of the appointments, who, from my knowledge of him, appears to be a proper person, both as to character and experience in the profession. Remarking to you that the advantage which might accrue from their superintendence seems to suggest the propriety of nominating the commanders before the vessels are put on the stocks, you have my permission to carry the arrange-

ment for building the boats or cutters, stated in your letter, into immediate effect, to such extent as in your judgment shall seem necessary for the public service.

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HAMILTON TO WASHINGTON.

NEW-YORK, September 21st, 1790.

SIR:

Doctor Craigie has communicated to me a letter from Mr. Daniel Parker to him, dated London, the 12th of July, which mentions that he had just seen Mr. De Miranda, who had recently conversed with the Marquis Del Campo, from whom he had learnt that the Court of Spain had acceded to our right of navigating the Mississippi.

Col. Smith has also read to me a passage out of another letter, of the 6th of July, which mentions that orders had been sent to the Viceroy of Mexico, and the Governor of New Orleans, not to interrupt the passage of vessels of the United States through that river.

It is probable that other communications will have ascertained to you whether there be any and what foundation for this intelligence; but I have thought it advisable, notwithstanding, to impart it to you.

The reports from Europe favor more and more the idea of peace. They are, however, not conclusive, and not entirely correspondent.

Captain Watson, of the ship New-York, who left London the 28th of July, and Torbay the 16th or 17th of August, informs, that the evening preceding her departure from Torbay, he was informed by different officers of the fleet that peace between Britain and Spain had taken place, and had been notified by Mr. Pitt, in a letter to the Lord Mayor of London, of which an account had arrived *that evening*. He had, however, seen no papers containing the account, and the press of seamen had continued down to the same evening.

On the other hand, Capt. Hunter, of the ship George, who

left St. Andero the 8th of August, affirms that vigorous preparations for war were still going on at that port.

I have the honor to be, &c.

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HAMILTON TO WASHINGTON.

NEW-YORK, Sept. 29, 1790.

SIR:

I have been duly honored with your two letters of the 18th and 20th of September.

My opinion on a certain subject has been forwarded, and I hope will ere this have come to hand.

Inclosed you will be pleased to receive a list of such characters as, from the documents furnished by Mr. Lear, from my inquiries, and from the intimations contained in your letter of the 20th, appear to stand, upon the whole, fairest, for the command of the revenue boats; except for the stations of North Carolina and Georgia, concerning which there is no satisfactory information.

Captain Montgomery is said to have, on some accounts, greater pretensions to respectability than Captain Roach (though both are represented to be men of merit), and *something like* claim to preference from situation.

Mr. Gross is submitted on the recommendation of Captain Barney, who mentions favorably both him and a Mr. Daniel Porter, naming Gross first, but without expressing a preference of either.

The Vice-President put into my hand, a day or two ago, the inclosed letters concerning Captain Lyde; but as Williams, who is recommended by Governor Hancock, is also warmly recommended by General Lincoln, the evidence in his favor may be deemed to preponderate.

The manifest expediency of the previous nomination or appointment of the persons who are to command the boats, to oversee the building and equipping of them, will suspend the further

execution of the business till your pleasure, as to the persons, shall be signified.

The subaltern officers can be appointed at greater leisure, for which purpose I am collecting information, as I am also doing in respect to commanders for the two boats destined for North Carolina and Georgia; but I presume the others need not be delayed on this account.

I have the honor to be, &c.

P. S.—The British packet is just arrived. The rumor is, that the declarations in the inclosed paper were regarded as the prelude of peace; but that the matter was not considered as finished, and accordingly the press of seamen had continued with as much vivacity as before. In the letter from the Minister to the Lord Mayor, these declarations seem to be regarded in the above-mentioned light. The letter says, the negotiators were about to proceed to the discussion of the other matters in dispute, with a view to a definitive arrangement.

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### HAMILTON TO WASHINGTON.

NEW-YORK, Sept. 30, 1790.

SIR:

I had lately a visit from a *certain gentleman*, the sole object of which was to make some observations of a delicate nature concerning *another gentleman* employed on a *particular errand;* which, as they were doubtless intended for your ear (and, such as they are, ought to be known to you), it is of course my duty to communicate.

He began (in a manner somewhat embarrassed, which betrayed rather more than he seemed to discover) by telling me that, in *different companies* where he had happened to be *in this* city (a circumstance, by the way, very unlikely), he had heard it mentioned that that *other gentleman* was upon terms of very great intimacy with the representative of a certain court at the one where he was employed, and with the head

of the party opposed to the minister; and he proceeded to say that, if there were any symptoms of backwardness or coolness in the minister, it had occurred to him that they might possibly be occasioned by such *an intimacy;* that he had no intimation, however, of this being the case, and that the idea suggested by him was mere matter of conjecture; that he did not even know it was a fact that the intimacy subsisted. But if this should be the case (said he), you will readily imagine that it cannot be calculated to inspire confidence or facilitate free communication. It would not be surprising if a very close connection with the representative of another power should beget doubts and reserves; or if a very familiar intercourse with the head of the opposition should occasion prejudice and distance. Man, after all, is but man; and though the minister has a great mind, and is as little likely as most men to entertain illiberal distrusts or jealousies; yet there is no saying what might be the effect of such conduct upon him. It is hardly possible not to have some diffidence of those who seem to be very closely united with our political or personal enemies or rivals. At any rate, such an intimacy, if it exists, can do no good, may do some harm.

This, as far as I recollect, was the substance of what he said. My answer was nearly as follows:—

I have never heard a syllable, sir, about the matter you mention. It appears to me, however, very possible that an intimacy with both the persons you mention may exist: with the first, because the situation of the parties had naturally produced such an intimacy while both were in this country; and to have dropped and avoided it there would not have been without difficulty, on the score of politeness, and would have worn an extraordinary and mysterious aspect. With the last, from the patronage of American affairs which is understood to have been uniformly the part of that gentleman, and, in some degree, from a similarity of dispositions and characters; both brilliant men, men of wit and genius; both fond of the pleasures of society. It is to be hoped that appearances which admit of so easy a solution will not prove an obstacle to any thing which mutual interest dictates. It is impossible that there can be any thing wrong.

He replied, that he certainly had no idea that there could be any thing wrong; but that, as trifles often mar great affairs, he thought it best to impart to me his conjecture, that such use might be made of it as should be thought advisable.

I have the honor to be, &c.

P. S.—The letters herewith were, through hurry, omitted in my dispatch of yesterday.

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### WASHINGTON TO HAMILTON.

MOUNT VERNON, October 3d, 1790.

DEAR SIR:

Since my last to you, your letter dated the 15th ult'o, containing your sentiments on the questions I had proposed for your opinion and advice, is come duly to hand. I feel myself much obliged by the full and able consideration you have given the subject. From present appearances, however, it does not seem as if there would be occasion for any decision on either point which gave birth to my questions.

With very sincere regard and affection,

I am, dear Sir, &c.

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### HAMILTON TO LINCOLN.

TREASURY DEPARTMENT, Oct. 4th, 1790.

SIR:

It being necessary that I should proceed, according to the directions of the legislature, to complete the light-house at Portland, in the province of Maine, I find the remote situation of the place will render your assistance requisite on the occasion. Inclosed you will find the Act of Congress which must limit your disbursements. I wish this business to be well executed, in a way corresponding with the beginning, and that no time may be lost. If it is possible to complete the work this season, it is very

desirable that it be done; if not, I hope it may be so far advanced, that the building can be covered and protected from injury by the weather. On receipt of this, be pleased to employ, without any avoidable delay, the suitable persons, either on the spot or elsewhere in the State of Massachusetts, to complete this light-house, either by contract or otherwise—preferring the former, as the mode designated in other instances by the legislature, and taking care that your disbursements do not exceed the sum granted by law.

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### WASHINGTON TO HAMILTON.

(PRIVATE.)

MOUNT VERNON, Oct. 10, 1790.

DEAR SIR:

Your letter of the 30th ult. came duly to hand with its inclosures. For the information contained in it I thank you, as I shall do for all others of a similar nature.

The motives, however, by which the author of the communication to you was actuated, although they may have been pure, and in that case praiseworthy, do also (but it may be uncharitable to harbor the suspicion) admit of a different interpretation, and that by an easy and pretty direct clue.

We are approaching the first Monday in December by hasty strides; I pray you, therefore, to revolve in your mind not only such matters (if there be any) as may be proper for me to lay before Congress in your own department, but such others of a general nature as may happen to occur to you, that I may be prepared to open the session with such communications as shall appear to merit attention.

With sincere regard, I am, &c.

## HAMILTON TO WASHINGTON.

NEW-YORK, Oct. 17, 1790.

SIR:

I had the honor of receiving your letter of the 10th inst. by the last post. It is certainly very possible, that motives different from the one avowed may have produced a certain communication; and in matters of such a nature it is not only allowable, but the dictate of prudence, to receive suggestions with peculiar caution.

A British packet arrived yesterday. The accounts she brings are all of a warlike aspect. I have extracted from an English paper the inclosed decree of the National Assembly of France; which, though of a qualified tenor, looks pretty directly towards the eventual supporting of Spain. The English papers hold it up as a decisive indication of a disposition to do so. And it is said, in some of the letters which have been received, that positive orders have been sent to Lord Howe to fight if he can find an opportunity. The papers announce a second fleet of fifteen sail of the line ready to rendezvous at Portsmouth, to be under the command of Admiral Hood. Their destination unknown.

It is also mentioned that the Dutch fleet had returned to the Texel, the Duke of Leeds having previously made a journey for an interview with the Dutch admiral. This very mysterious circumstance is wholly unexplained.

A certain gentleman who called on me to-day, informed me that a packet had sailed the 16th of August for Quebec, in which went passenger General Clarke. He added that the rumor in England was, that Sir Guy Carleton was to return in her. He made no other communication.

The inclosed letter came to hand to-day. I have had no opportunity of making any inquiry concerning the person recommended in it. If I can obtain any additional lights, they shall be made known without delay.

The object suggested in your letter as preparatory to the meeting of the Legislature shall engage my particular attention.

The papers of the departments of state and the treasury, and of the commissioners for settling accounts, are on their way to Philadelphia. On the 20th, I propose with my family to set out for the same place.

I have the honor to be, &c.

*Decree of the National Assembly.*

Thursday afternoon, four o'clock.

The National Assembly, deliberating upon the formal proposition of the King contained in the letter of his minister of the 1st of August, decrees,

*First.* That the King shall be prayed to make known to his Catholic Majesty that the French nation, in taking all the measures necessary to maintain peace, will observe the defensive and commercial engagements which his Government has contracted with Spain.

*Secondly.* Decrees moreover that the King shall be prayed immediately to charge the Ambassador from France in Spain, to negotiate with the ministers of his Catholic Majesty for the purpose, and to the effect of strengthening, by a National Treaty, the ties and connections useful to the two nations, and to fix with clearness and precision all the stipulations which shall not be entirely conformable to the views of a general peace, and to the principles of justice, which will ever be the policy of France.

*Thirdly.* The National Assembly taking into consideration the armaments of the different nations of Europe—their progressive augmentation, the safety of the Colonies and of Commerce, decrees that the King shall be prayed to give necessary orders that the squadrons in commission may be augmented to forty-five ships of the line, with a proportionate number of frigates and small vessels.

HAMILTON TO GOODHUE.

October 29, 1790.

DEAR SIR:

As the subject of the inclosed letter is of consequence to the Whale Fishery, I send it to you to read, and will be glad to converse with you about it to-morrow.

Your obedient servant,

A. H.

October 29, 1789.

MY DEAR SIR:

I am duly favored with your letter of the eighteenth instant, and receive the observations you have been so obliging as to make, not only with candor but with thanks, as a mark of your friendship and confidence.

I am far from relying so much upon my own judgment as not to think it very possible that I may have been mistaken in both the constructions on which you remark. Indeed I see abundant room for adopting opposite ones, and did not, till after mature reflection, conclude on those which had been announced, and not then, entirely, without hesitation.

The reasoning which prevailed in my mind in each case was of this nature:

First, as to the Bounty.

The original and express object of the allowance was by way of compensation for the duties on salt.

The declared motive of the suspension was, that there was salt within the United States, on which no such duties had been paid.

The equity of the suspending clause, which is, that there ought to be no compensation where there is no consideration, and the general intent of the Legislature, which was, that there should be no compensation where there had been no such consideration, were therefore both manifestly against the allowance of the bounty on the articles shipped between the passing of the

first Act and the passing of the second. And though the letter of the suspending clause is *future*, yet its reason being retrospective, and the actual making of the allowance for articles already shipped being future also, I thought it admissible so to construe the law as to arrest this allowance, in that sense future, in conformity to the real justice of the case and the main design of the Legislature. In a circumstance in which the equity was palpable, and the law doubtful, I thought it my duty as an executive servant of the Government, not to let the public money be parted with on a mere point of construction, till that construction should be judicially established. This resource will be open to any individual who will choose to pursue it, by an action against the Collector of the Port from which the articles were shipped.

Secondly, as to the discount for prompt payment.

The words "prompt payment" are, in my apprehension, synonymous with immediate payment, or payment down. The most obvious import of the clause in question seems, therefore, to be this: when the amount of the duties exceeds fifty dollars, time shall be given for payment upon proper bond security; but if the party prefers making immediate payment, on paying the money down he shall have an allowance of ten per cent., on all above fifty dollars, for doing it. The confining the discount to the excess illustrates the meaning of the provision, and shows that payment in the first instance was contemplated; for if it had been intended that the discount might be made at any time before the bonds became due, it would be difficult to imagine why it should not extend to the fifty dollars, as well as to the excess.

I was the more inclined to this construction, because I supposed the contrary one was of a nature to be rendered more beneficial to any collector who might choose to avail himself of it than to the public. And in general, I doubt much that it is the interest of the public to make such a discount, as they now borrow at less in its operation than six per cent.; on which account I felt no inclination to extend the discount.

Thus have I, my dear sir, freely explained to you the motives by which I have been governed in the instances in question.

And I shall be happy that they may appear to you satisfactory. I am sure at least that you will view the intention favorably; and I beg you to be assured of the friendship and esteem with which I am, &c.

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HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Nov. 4th, 1790.

SIR:

I have the honor to inform you, that a letter, of which a copy is inclosed, has come to my hands from the loan officer of North Carolina, since the date of my last letter. On considering minutely the course of the business of the new loans and the future operations of the treasury, as they will affect the public stocks, it appeared necessary, to the prevention of frands by counterfeiters and forgers, that particular caution should be observed at the time of receiving the old certificates, after which it would be difficult to discover the deceptions, and more so to remedy the injuries committed on the public. Among other preventives, I informed the officers that their residence, during the time of subscription, at the place where the checks of the State debts were deposited, appeared indispensable. This was grounded on the great varieties of that kind of paper, and on an expectation, arising from several circumstances, that forged and counterfeit paper would be frequently presented to them. In most of the States the officers resided at the seat of the State government, where the checks were deposited, and it was only of two or three, therefore, that this apparently necessary requisition was to be made. In regard to the residence of the officer at the principal seat of commerce in the State which should form his district, it appeared absolutely necessary to the facility of sale and transfer, and to the import and operations of raising and sustaining the value of the debt. I have thought it necessary, sir, to trouble you with thus much of my views, that you might perfectly understand the ground upon which Mr. Skinner resigns the appointment.

I beg leave respectfully to observe, that the public service appears to require this vacancy to be filled as early as you can satisfy your judgment respecting the person to whom you may think proper to commit the office. I have, therefore, endeavored to procure such information, to be submitted to you, as, together with that drawn from other sources, might afford a number of characters for your consideration and selection. I have not been able, however, to obtain any new name whom I would venture to place before you; but, on reconsideration of the names that were presented to you on the former occasion, I beg leave to call your recollection to Colonel Thomas, in whom the State have confided, and as a gentleman who was supported by the good opinion of such of the North Carolina representatives as I conversed with. Should no objection against him be known to you, and should no more suitable person be presented for your choice, I am humbly of opinion that the duties of the office may be safely committed to him.

The account of a declaration of war between Great Britain and Spain having been received in a port adjacent to your present place of residence, I did not think it of importance to transmit information of it from hence. It remains, however, unconfirmed and uncontradicted.

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FITZSIMMONS TO HAMILTON.

November 6th, 1790.

DEAR SIR:

The difficulty of making provision, by a general law, for the regulation of pilots, and the superintendence of light-houses, buoys, &c., appears to me to be insurmountable, otherwise than by the appointment of commissioners in each State (say three), to reside at the principal port; to give them certain powers in the act and authority to make by-laws, subject to the revision of the President of the United States, or perhaps, more properly, of the Secretary of the Treasury.

By this method, the complete control of the pilots would be in the United States—a thing, in my opinion, important to the revenue; and the regulations may be adapted to the circumstances of each State, without interfering with each other. If you approve of the idea, and I can be serviceable in carrying it into effect, you may command me.

I am, respectfully, &c.

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## HEADS OF TOPICS FOR PRESIDENT'S SPEECH OF DEC. 8, 1790.

Draft by Hamilton, December 1, 1790.

I. Confidence that measures for the further support of public credit, and for the payment of the interest and gradual extinguishment of the principal of the public debt, will be pursued with zeal and vigor; and that, as one mean to this, a plan for the sale of the Western lands will be adopted, which will give them the effect intended, appropriating them to the sinking fund, and which will extend the agriculture of the United States.

II. Felicitation on the success of the measures hitherto adopted for the support of public credit, as witnessed by the rise of American stock, not only in the United States, but in Europe. The public credit cannot but acquire additional energy when it is known that the resources hitherto in activity, have been more productive than was calculated upon. As proof not only of the resources of the country, but of the patriotism and honor of the mercantile and marine citizens of the United States, the punctuality of the former in discharging their obligations has been exemplary.

III. Information that a loan of 300,000 florins has been effected in Holland, the terms and disposition of which (as far as any has been made) the Secretary of the Treasury has been directed to explain.

IV. Growing conviction in the minds of the great body of the people of the utility and benefits of a National Government. It

is not to be doubted that any symptom of discontent which may have appeared in particular places, respecting particular measures, will be obviated by a removal of the misapprehensions which may have occasioned them.

V. Communication of the expedition against the Indians, and of the motives to it.

VI. Disturbed situation of Europe, particularly of the great maritime powers. The precautions of a prudent circumspection on the part of the United States ought not to be neglected.

VII. Almost total interruption of our Mediterranean trade, from the dread of piratical depredations. Great importance of opening that trade, and expediency of considering whether protection cannot be afforded to it.

IX. Symptoms of greater population than was supposed—a further proof of progressive strength and resource.

X. Remarks on the abundance of the harvests, affording an assurance of internal plenty, and the means of easy payment for foreign supplies.

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### HAMILTON TO WASHINGTON.

PHILADELPHIA, Dec. 2d, 1790.

SIR:

The day before yesterday I received a letter from Mr. Woodbury Langdon, declining the appointment offered him. There was a letter with it for you, which I immediately forwarded.

Since that time I have conversed with Mr. Langdon, and have heard from Mr. Gilman; the former is warm in his recommendation of Mr. Keith Spence; he states that his insolvency was owing to the loss of a valuable ship and cargo, and was attended with the most honorable circumstances; that an immediate adjustment with the creditors took place to their entire satisfaction; that the deficiency was only of £1000, which he considers as remitted; that Mr. Spence was in partnership with Mr. Sherburne; that they have both been since in good business,

and are now more than able to pay whatever they may owe; that the failure happened some years ago; that Mr. Spence, though a native of Scotland, came early to this country—is a man of education and abilities, well known and respected—a firm friend to the Revolution and to the National Government—married to a lady of New Hampshire, with whom he has several children. He showed me a letter from Mr. Spence, which gives a favorable impression of his modesty and capacity.

Mr. Gilman talks of Mr. Spence as a man not generally known, and who being by birth a foreigner, is not as acceptable as a native to the people of that country; that his attachment to the American cause was rather ambiguous; that he married the daughter of a person who is now in office in the Island of Bermuda, and lately made a visit there; that his insolvency would throw a shade on his appointment, in the public opinion.

He, on the other hand, warmly recommended a Mr. William Gardiner, the present Treasurer of New Hampshire; speaks decidedly of his good character, and abilities as a man of business, and of his general good standing in the State.

Mr. Langdon admits Mr. Gardiner to be a good and a qualified man—says he was formerly his first clerk; but affirms that Mr. Spence has greatly the superiority in point of qualification—hints at an arrangement between Mr. Gardiner and Mr. Gilman, the late Loan Officer, by which Mr. Gilman expects to succeed to the office of Treasurer, if the other obtains that of Commissioner of Loans.

Thus stands my information, as far as it goes; I conjecture, on the whole, that Mr. Spence is an unexceptionable man in every respect but that of his late insolvency, and that he is probably *better* qualified than Mr. Gardiner, or, in other words, a man of more ability. That, nevertheless, Mr. Gardiner is qualified for the office, and in other respects an eligible person. Perhaps the appointment of him will be, upon the whole, a safer one; freer from hazard of imputation of any kind.

You are, I presume, not unapprised of a Langdon and Gilman party in New Hampshire. Though it is desirable this business should be finished, yet if it be supposed likely that the

arrival of the eastern members will afford any new light, a few days' delay cannot be very important.

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SHORT TO HAMILTON.

AMSTERDAM, Dec. 2, 1790.

SIR:

My last letter, of the 26th of November, will have informed you of my arrival at this place. I have been hitherto employed in ascertaining what measures would be most conducive to the honor and interests of the United States in the execution of the commission you have confided to my care. In the course of this business several of the objects to which you directed my inquiries naturally presented themselves, and particularly those which relate most immediately to a present loan.

I very soon satisfied myself that the rate of interest could not now be reduced below five per cent.; this was indicated as well by the loans at present open here for other powers, which produce that rate, as by those made on the liquidated debt of the United States, which produce a higher rate. Besides, the Acts of Congress were well known here, and left no doubt in the minds of those employed in loans, that the advantages to be derived to the United States from the purchase of their own funds at their present price would induce them to borrow willingly on those terms.

It remained, therefore, only to be examined if the rate of commission paid by the United States on their last loan, and which their bankers had proposed to me as the lowest on which they would undertake the business, could not be meliorated. To do this, it was necessary to ascertain the rate paid by other powers who borrow here, which is the less easy as it is an article which only regards the borrower and the agent, and which they are both disposed to keep to themselves. Inquiries of this nature also were the more delicate in the present case, because, as I had every reason to believe it would be proper finally to commit this

business to those who have hitherto been employed in it, it was to be wished that they should have as little ground as possible to suppose in us a disposition to suspect or a desire to change them.

I found that most of the borrowing nations paid a much higher commission, and I had good reason to believe that the Emperor alone was served at the lower rate of four per cent. After several conversations with the agents of the United States, in which they urged the impossibility of accepting lower conditions than those they had prescribed to themselves in the last loan, where the circumstances under which they opened it obliged them to confine their profits to the lowest possible terms, they consented to a diminution of one-half per cent. on the commission, so as to leave it at four.

It was consequently agreed between us that they should open a loan for two millions and a half of guilders, equal to a million of dollars, upon the above terms of interest and commission, the reimbursement to begin at the end of ten years, and to be completed in the five following; the United States having a right to reimburse the whole or any part of the same at any earlier period they should judge proper. This latter clause, which you seemed desirous of retaining, and which is certainly desirable under the circumstances of the United States, is admitted here without difficulty.

Matters being thus settled between these houses and myself, it still remained for them to consult with the brokers who are employed in this business, about the best time of opening the loan.

In the course of my different conversations with the agents, and also with two of the principal brokers in the American business, with whom I had made myself acquainted, I had already had occasion to observe that they considered the present as an unfavorable moment for making loans in general, and particularly so or the United States, because their five per cent. loans were below par at present, owing to many people selling out of these loans in order to place their funds in those made in the liquidated debt; these latter producing an higher rate of interest, and presenting also the United States ultimately as their security.

The result of the conference, therefore, which the bankers had with the brokers yesterday evening was, that if Congress was in absolute want of the money they could set the loan on foot, and had no doubt of having it filled before the expiration of the term generally allowed in these cases—that it was, however, certain that it would go on slowly and heavily, and might thus be injurious to the future views of Congress, as it appeared from their acts they would have occasion to make a series of loans;—that it would, therefore, be best to postpone opening the loan until the beginning of February, at which time such a loan would be desired on the market, and greedily sought after,—that if any favorable circumstance should turn up sooner, which, however, they did not foresee, they could in that case give notice of it, and advise the loan being brought on the market.

It was impossible for me to hesitate in subscribing to this sentiment, concurred in both by the bankers and brokers, and confirmed by reason and example; I did it with less reluctance, because I saw that under present circumstances and agreeable to the mode of making loans here, any given sum would be raised probably as soon if brought on the market in the beginning of February as at present.

Whenever a loan is opened, the undertakers, who are an order between the money lenders and brokers, require a certain time, always much more than necessary, for furnishing the money for which they engage, with the privilege, however, of furnishing it at any time sooner if they think proper, and this is done sooner or later according to the favor with which the loan is received. It is the opinion of Stadwitzke, particularly, that any given number of loans could be effected for the United States at an earlier period, beginning the first of February, than at present, because the readiness with which the first loan would probably be taken up in that case would accelerate the others.

These considerations, together with the propriety of endeavoring to augment the credit of Congress by having their loans not barely taken up when brought on the market, but sought after with avidity, have determined me to fix with the bankers only the terms of interest and commission, and to leave the time of

opening the loan dependent on the circumstances above mentioned. No inconvenience can result as to such parts of the money as you may destine to continue the payments to France; as after receiving your orders, the minister may be authorized to draw on this place, at terms which may be adapted to the agreements made with the undertakers. As to such parts as you may choose to call for, there will probably be no inconvenience either, the terms of the bills, if you should draw, leaving sufficient time for filling the loans; and if you should desire the coin to be sent, the delay will not be considerable.

Having thus informed you, sir, of the present situation of the intended loan, and the particular circumstances which have led to it, I will endeavor to put you in possession of such parts of the general information you desired as I have been able to collect, premising however, that from the time and manner in which these notions have been acquired, there may be some errors, and that I reserve a right to correct them in my future letters; these errors however, I think, will be few and inconsiderable, as I have endeavored to keep separate in my mind such information as appeared to me ascertained by a coincidence of circumstances, or the corroborating evidence of different people (counting only as different those who have different professions and different and frequently opposite interests), from such as was derived merely from isolated conversations with people of similar professions and interests.

With respect to the footing on which foreign loans have been made here since our independence and at present, it may be observed that the interest of money has taken a gradual rise, owing as well to the greater quantities which are demanded here by the several powers who borrow, as to a general increase of industry in Europe, which enables every one to make greater profits from his capital, in whatever manner he employs it, and consequently induces him to ask more if he is a lender, and enables him to give more if he is a borrower. Besides this use, which is independent of the circumstances of the borrowing powers, there is a variation as to the facility and terms on which they have obtained money, relative to the different situations in which

they have been at the time of making their loans; such as war or peace, their domestic administration, the influence of their agents employed here, and the intelligence which they have used in the time and manner of making the loans. The standing rate of interest fifteen years ago may be estimated at four per cent., as it may now at five. No foreign power who has occasion to make loans here at present pays less. Denmark has the appearance of making a loan at four, but it is only the exchange of old obligations bearing that interest for others at the same rate; and the price of this stock in the market shows that the interest which that power would be obliged to pay on a new loan would be five.

The borrowing powers here are, the Emperor, Russia, the United States, Denmark, Sweden, Poland,—I do not speak of domestic loans, as they are never considered as a criterion for foreign nations. The East India Company of this place has, however, lately made one which costs them about five per cent., as it is said. It was sought after with avidity for that reason, and because it was by lottery, a mode in which the lenders are fond of placing some part of their money, because it holds out the possibility of extraordinary gain, and also because they wish not only to multiply the different persons with whom they place their capital, but also to vary the manner of placing it.

Of the above mentioned powers, the Emperor and the United States only have not a loan open at present. The Emperor's last was closed, I think, in June: Poland has its first loan on the market. The Emperor's five per cent. stock may be purchased at two per cent. above par; that of Russia and the United States a little below par, the latter particularly at one-half or three-fourths per cent., viz. from 99¼ to 99½ the hundred. The comparative degree of estimation in which foreign credit is held by the money lenders is, first, the Emperor; second, Russia, the United States, and Denmark; third, Sweden;—Poland cannot be well judged of yet. Its credit depends principally upon its being known to have little or no public debt; on the prospect of its constitution meliorating; and also on the disposition in the money lenders to multiply as much as possible the persons with whom they place their capital.

As to the influence which the war between England and Spain would have had on the American loans, it seems to me it would have facilitated them, because many would, in that case, have sold out of the English funds, and some of them would have vested their money in the American. It is proper to observe, however, that many people here are of a different opinion, and think that those who should have sold out would have kept their money to be revested in the English funds when they should have fallen to their lowest. But as this war is now out of the question, it is useless to reason on it.

The extent and condition of our loans in the case of our being at war ourselves, it is impossible for me to form any probable conjecture about. The bankers, however, say, that it would be impossible to obtain more than very inconsiderable sums, and these by an extraordinary interest and extraordinary means, such as a lottery of some kind or other.

The conditions on which our loans are to be made at present, I have already mentioned. The extent to which they may be carried in any given time, depends so much on the changeable circumstances of Europe, and their influence on this place, that it is impossible to reduce it to certainty. It seems to be thought by Stadwitzke, and by our bankers also, that in the case of no other war taking place in Europe than that which exists at present between Russia and the Porte, we may be able to borrow from nine to twelve millions of guilders in fourteen months from this time. It must be observed, however, that in making this estimation, they calculated on the loans being of three millions of guilders each, and of their being opened successively whenever there was a favorable moment. I did not think it necessary to inform them that the sum of each would be limited to a million of dollars, and that no succeeding loan would be opened until the preceding one had been confirmed. I do not think it probable that the latter condition will occasion any delay, as a confirmation may generally be received in three months. The bankers insisted much upon fixing the loans at three millions of guilders, urging that that sum was the one to which the undertakers here were so much accustomed, that it would probably

be as soon taken up as one of two millions and a half. I did not, however, think myself authorized to subscribe to their wishes.

This view of the matter will show that it will take a longer time to complete the sums wanted for the year '91 than you had probably imagined. I own I had supposed, before my arrival here, that they might be obtained sooner; but the loans made on the liquidated debt, which amount nearly to six millions of guilders, have done considerable injury to the loans of Congress. The only remedy to this evil is in the rise of the American funds at home. The calculation here is, that when they get to fifteen shillings in the pound, those who borrow on them cannot give more than five per cent. interest. In that case, the loans of Congress would be always preferred. The lowest interest which has yet been given on the loans of the liquidated debt, is six per cent., except, indeed, a small one of half a million of guilders, which was proposed a few days ago at five and a half per cent. The house of Cromelin, who set it on foot, finding that it would not take, and being unwilling to have the appearance of having failed in an undertaking, withdrew it from the public, under pretence that they had placed it among their friends. It is generally understood, however, that money cannot be raised on these funds at less than five per cent. * * * *

As it was necessary to ascertain fully whether four and a-half per cent. was really the lowest terms on which they [Willinks] would undertake the business, I endeavored to do it without giving Congress the appearance of a hard employer.

* * * * * * *

At the expiration of the term, they came and proposed themselves the reduction of one-half per cent. on the commission, which I accepted. During the course of our conversations, they had urged in favor of the terms they had proposed, that they never made any charge to Congress for the disbursement of the loans, which, as they say, is done by other branches, and is from one-half to one per cent. I know not whether this is the case, and it is the less necessary as they are to continue their usual mode; so as that the United States actually receive and dispose of

ninety-six florins for every one hundred for which their obligations are given.

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HAMILTON TO SETON.

PHILADELPHIA, Dec. 7, 1790.

DEAR SIR:

If I recollect right, my requests have hitherto referred your experiments to the newest dollars. I want, however, to know the different kinds in common circulation, and their average weight and respective dates.

Will you be so obliging, then, as to cause different parcels to be taken promiscuously out of the mass in bank—say about one hundred in each parcel, to cause them to be accurately weighed together, and to transmit me the result, together with the dates of the different kinds in each parcel?

The sooner I can have this, the more it will oblige.

My anxiety respecting the assays chiefly relates to dollars, and of course I wish them to be extended to the several kinds in common circulation, and that the dates may be transmitted with the results of the experiments.

These assays ought not to be stinted to too small portions of metal. Any loss will be thankfully made good.

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HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Dec. 13th, 1790.

SIR:

I have the honor to transmit herewith the copy of a report intended to be presented to the House of Representatives on the subject of a National Bank.

This communication would have been earlier made, if it had

been in my power; but it has been impossible for me to prepare it sooner.

With the most perfect respect, &c.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Dec. 15th, 1790.

The Secretary of the Treasury has the honor respectfully to inform the President of the United States, that a wish of the Collector of Boston to spend a part of the time of the session of Congress at the seat of government, has been intimated to him. An absence from his office at this season of the year being the least likely to be inconvenient, and it being probable that much useful information may be derived from conferences with that officer, the Secretary would gladly transmit to him the President's permission, if it should be his pleasure to grant it.

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### WASHINGTON TO HAMILTON.

(PRIVATE.)

Dec. 1790.

DEAR SIR:

Your indisposition has prevented me from giving you as much trouble in making my communications to Congress as otherwise I might have done.

The article of your notes which respects the loan in Holland, I am somewhat at a loss to frame into a paragraph for the speech, and therefore pray your assistance.

I had got it as per the inclosed, but upon a revision it does not appear right. Be so good, therefore, as to new model, and let me have it (if convenient to you) this afternoon with the sums expressed where necessary.

I am sincerely yours, &c.

"In pursuance of the authority granted for negotiating a loan, not exceeding ———, application was made in Holland, and I have the pleasure to inform you that a sum equal to —— dollars has been subscribed. This loan, which shows by its success the confidence placed in the United States, cannot fail by its intended application to give additional support to the public credit. The terms of it, with the diposition as far as made, the Secretary of the Treasury is directed to communicate."

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HAMILTON TO WASHINGTON.

Dec. 22, 1790.

SIR:

I have the honor to send with this a short report on the Post-Master General's letter.

From the circumstances of the case, and a general impression that it is always best for the Chief Magistrate to be as little implicated as possible in the specific approbation of a particular measure proceeding from a particular officer, I believe it may be advisable to answer generally that the President sees with pleasure the improvements made in the contracts for conveying the Mail; that he doubts not a judicious discretion has been exercised in relation to the several parts of them. That (especially where circumstances vary) there does not appear to be a strict obligation to prefer the lowest offer, and that in the case of (Mr. Inskeep) the greater frequency of the transmission of the Mail, the concentration of the business under one director, and the experience of the past good conduct, are weighty reasons for the preference of his offer meditated by the Post-Master General.

With the most respectful attachment, &c.

JEFFERSON TO HAMILTON.

January, 1791.

DEAR SIR:

I return you the Report on the Mint, which I have read over with a great deal of satisfaction. I concur with you in thinking that the unit must stand on both metals; that the alloy should be the same in both; also in the proportion you establish between the value of the two metals. As to the question on whom the expense of coinage is to fall, I have been so little able to make up an opinion satisfactory to myself as to be ready to concur in either decision. With respect to the dollar, it must be admitted by all the world that there is great uncertainty in the meaning of the term, and therefore all the world have justified Congress for their first act of removing the uncertainty by declaring what they understood by the term; but the uncertainty, once removed, exists no longer, and I very much doubt a right now to change the value, and especially to lessen it, it would lead to so easy a mode of paying off their debts; besides, the parties injured by this reduction of the value would have so much matter to urge in support of the first point of fixation. Should it be thought, however, that Congress may reduce the value of the dollar, I should then be for adopting for our unit, instead of the dollar, either one ounce of pure silver, or one ounce of standard silver, so as to keep the unit of money a part of the system of measures, weights, and coins. I hazard these thoughts to you extempore, and am, dear sir,

Respectfully and affectionately,

THOMAS JEFFERSON.

Col. HAMILTON.

I inclose you two letters just received from France.

HAMILTON TO JEFFERSON.

PHILADELPHIA, Jan. 11, 1791.

DEAR SIR:

I have perused with attention your intended Report to the President, and will, as I am sure is your wish, give you my opinion with frankness.

As far as a summary examination enables me to judge, I agree in your interpretation of the treaty. The exemption sought does appear to be claimable as a right. But I am not equally well satisfied of the policy of granting it on the ground you suggest. This, in my mind, stands in a very questionable shape. Though there be a collateral consideration, there is a want of reciprocity in the thing itself; and this is a circumstance which materially affects the general policy of our navigation system. The tendency of the measure would be to place French vessels upon an equal footing with our own *in our ports*, while our vessels in the ports of France may be subjected to all the duties which are there laid on the mass of foreign vessels. I say the mass of foreign vessels, because the title of "most favored nation" is a very extensive one, the terms being almost words of course in commercial treaties. And consequently our own vessels in the carrying trade between the United States and France would be in a worse situation than French vessels. This is the necessary result of equal privileges on one side and unequal on the other, in favor of the vessels of France.

Though, in the present state of the French navigation, little would be to be apprehended from the regulation; yet, where the probable increase of that navigation under a free government is considered, it can hardly be deemed safe to calculate future consequences from the actual situation in this respect.

And if the principle of the regulation cannot be deemed safe in a permanent view, it ought not to be admitted temporarily; for inconvenient precedents are always embarrassing.

On the whole, I should be of opinion that the introduction of

such a principle without *immediate* reciprocity would be a high price for the advantage which it is intended to compensate.

It will, no doubt, have occurred to you that the fund has been mortgaged for the public debt. I do not, however, mention this as an insuperable objection; but it would be essential that the same Act which would destroy this source of revenue should provide an equivalent. This I consider as a rule which ought to be sacred, as it affects public credit.

I have the honor to be, &c.

P. S.—If you have any spare set of the printed papers, I should be obliged by having them.

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HAMILTON TO JEFFERSON.

January 13th, 1791.

DEAR SIR:

I thank you for the printed papers you have been so obliging as to send.

I cannot forbear a conjecture that the communications of the Chargé des Affaires of France are rather expedients to improve a moment in which it is perceived questions concerning navigation are to be discussed, than the effects of serious instructions from his court.

Be this as it may, I really have not thought of any substitute for your proposition to which objections do not lie. And, in general, I have doubts of the eligibility of *ex parte* concessions, liable to be resumed at pleasure. I had rather endeavor, by a new treaty of commerce with France, to extend reciprocal advantages, and fix them on a permanent basis. This would not only be more solid, but it would, perhaps, be less likely, than apparently gratuitous and voluntary exemptions, to beget discontents elsewhere, especially (as ought to be the case) if each party should be at liberty, for equivalent considerations, to grant

like privileges to others. My commercial system turns very much on giving a free course to trade, and cultivating good humor with all the world. And I feel a particular reluctance to hazard any thing, in the present state of our affairs, which may lead to a commercial warfare with any power; which, as far as my knowledge of examples extends, is commonly productive of mutual inconvenience and injury, and of dispositions tending to a worse kind of warfare. Exemptions and preferences which are not the effect of treaty, are apt to be regarded by those who do not partake in them as proofs of an unfriendly temper towards them.

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SHORT TO HAMILTON.

AMSTERDAM, January 25th, 1791.

SIR:

I have the honor of addressing you this letter by the way of the English packet, because contrary winds still prevent any vessel leaving the Texel. All the letters I have written to you by American vessels since my arrival here are still there. Their several dates are Dec. 2d, 18th, and 30th, January 15th. These letters were exceedingly prolix, as I thought it necessary to enter into very particular details, in order to give you as good an idea as I could of the different subjects about which you wished to be informed. Duplicates of the first and second were forwarded by separate vessels. I informed you also of the several attempts that had been made to purchase the American debt due to France, by a company of speculators, and the present situation of that business. It was in those letters alone that I gave you information, also, respecting the business about which you must be most anxious to hear. The long continuance of the contrary wind, and the uncertainty when it may cease, induces me to mention at present, in general terms, the terms on which the loan is to be made, are the same with the last, except

that the commission is to be half per cent. lower. It will be opened the middle or latter part of February.

I received, accidentally, by the way of England, the President's speech at the opening of Congress; it was expected here with much impatience, and has given much satisfaction—extracts are already inserted in several of the Dutch gazettes, as I find. In general, intelligence from the United States is sought after with much avidity.

I have received lately, from M. de Lafayette, a letter, which you sent merely to introduce to me Mr. Walker, of New-York, and who left it with him. I am sorry not to have seen this gentleman, that I might have had an opportunity, sir, of paying proper attention to your recommendation. M. de Lafayette had previously informed me, that he had left with him also a large packet with the seal of the Treasury Office. He understood that the contents did not render it necessary to send it to me to this place, and has therefore kept it at Paris. I conjecture that they are the papers promised in your letter of September 1st.

I inclose you a general state of the exportations from Petersburg for the last year; and a particular one of those made to the United States in their own shipping. *Prod*, is a weight equal to about thirty-six pounds English. *Arsh*, is a measure with which I am unacquainted. We may hope, from the effect of our wise regulations in America, to have less need in future of foreign aid for many of these articles. Our shipping will then find other employment, notwithstanding the rapid increase which may be counted on with certainty. You will see in the general state that Great Britain employs more ships in this business than all the other nations together, and yet their minister seems decided to take measures in the Spring which would at least arrest this business for some time. He must probably think such measures indispensable or he would not venture to paralyze so important a member of the national commerce. Many say, however, that this is one of the instances in which cabinets sacrifice commerce to politics.

Before I left Paris I was promised by the Farmer General a particular state of our commerce with France for the first six

months of the year, and at the end of the year another for that term. I gave directions to send a copy of it to you; but as I do not find that that which was for myself has been received, I fear yours has not been sent either. I will endeavor to procure a state for the whole year immediately, and send it to you.

For the present situation of European politics I beg leave to refer you to my letter of yesterday to the Secretary of State, in which this will be inclosed.

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## WASHINGTON TO THE PRESIDENT OF THE NATIONAL ASSEMBLY OF FRANCE.

Draft by Hamilton.

PHILADELPHIA, 27th January, 1791.

SIR:

I received with particular satisfaction, and imparted to Congress, the communication made by the President's letter of the 20th of June last, in the name of the National Assembly of France. So peculiar and so signal an expression of the esteem of that respectable body for a citizen of the United States, whose eminent and patriotic services are indelibly engraved on the minds of his countrymen, cannot fail to be appreciated by them as it ought to be. On my part, I assure you, sir, that I am sensible of all its value.

The circumstances, which, under the patronage of a monarch, who has proved himself to be the friend of the people over whom he reigns, have promised the blessings of liberty to the French nation, could not have been uninteresting to the free citizens of the United States; especially when they recollected the dispositions which were manifested by the individuals as well as by the government of that nation, towards their still recent exertions in support of their own rights.

It is with real pleasure, sir, that I embrace the opportunity now afforded me, of testifying through you to the National As-

sembly, the sincere, cordial, and earnest wish I entertain, that their labors may speedily issue in the firm establishment of a constitution, which, by wisely conciliating the indispensable principles of public order with the enjoyment and exercise of the essential rights of man, shall perpetuate the freedom and happiness of the people of France.

The impressions naturally produced by similarity of political sentiment are justly to be regarded as causes of national sympathy, calculated to confirm the amicable ties, which may otherwise subsist between nations. This reflection, independent of its more particular reference, must dispose every benevolent mind to unite in the wish, that a general diffusion of the true principles of liberty, assimilating as well as ameliorating the condition of mankind, and fostering the maxims of an ingenuous and virtuous policy, may tend to strengthen the fraternity of the human race, to assuage the jealousies and animosities of its various subdivisions, and to convince them more and more, that their true interest and felicity will best be promoted by mutual good will and universal harmony.

The friendship, to which the President alludes in the close of his letter, has caused me to perceive with particular pleasure that one, who had endeared himself to this country by an ardent zeal and by useful efforts in the cause of liberty, has by the same title acquired the confidence and affection of his own. May it ever be his chief aim to continue to be beloved, as one of her most virtuous and most faithful citizens.

I beg you to accept my acknowledgments for the sentiments in the same letter, which relate more particularly to myself, and at the same time to be assured of the most perfect consideration on the part of, &c.

### WASHINGTON TO HAMILTON.

PHILADELPHIA, Feb. 16, 1791.

SIR:

An Act to incorporate the subscribers to the Bank of the United States is now before me for consideration.

The constitutionality of it is objected to. It therefore becomes more particularly my duty to examine the ground on which the objection is built. As a mean of investigation, I have called upon the Attorney-General of the United States, in whose line it seemed more particularly to be, for his official examination and opinion. His Report is, that the Constitution does not warrant the Act. I then applied to the Secretary of State for his sentiments on this subject. These coincide with the Attorney-General's; and the reasons for their opinions having been submitted in writing, I now require, in like manner, yours on the validity and propriety of the above-recited Act; and, that you may know the points on which the Secretary of State and the Attorney-General dispute the constitutionality of the Act, and that I may be fully possessed of the arguments *for* and *against* the measure, before I express any opinion of my own, I give you an opportunity of examining and answering the objections contained in the inclosed papers. I require the return of them when your own sentiments are handed to me (which I wish may be as soon as is convenient); and further, that no copies of them be taken, as it is for my own satisfaction they have been called for.

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### HAMILTON TO WASHINGTON.

Monday.

The Secretary of the Treasury presents his respects to the President of the United States, to request his indulgence for not having yet furnished his reasons on a certain point. He has been

ever since sedulously engaged in it, but finds it will be impossible to complete it before Tuesday evening or Wednesday morning early. He is anxious to give the point a thorough examnation.

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HAMILTON TO WASHINGTON.

The Secretary of the Treasury presents his respects to the President, and sends him the opinion required, which occupied him the greatest part of last night.

The bill for extending the time of opening subscriptions passed yesterday unanimously to an order for engrossing.

*Opinion as to the Constitutionality of the Bank of the United States.*

February 23d, 1791.

The Secretary of the Treasury having perused with attention the papers containing the opinions of the Secretary of State and Attorney-General, concerning the constitutionality of the bill for establishing a National Bank, proceeds, according to the order of the President, to submit the reasons which have induced him to entertain a different opinion.

It will naturally have been anticipated, that in performing this task, he would feel uncommon solicitude. Personal considerations alone, arising from the reflection that the measure originated with him, would be sufficient to produce it. The sense which he has manifested of the great importance of such an institution to the successful administration of the department under his particular care, and an expectation of serious ill consequences to result from a failure of the measure, do not permit him to be without anxiety on public accounts. But the chief solicitude arises from a firm persuasion, that principles of construction like those espoused by the Secretary of State and Attorney-General, would be fatal to the just and indispensable authority of the United States.

In entering upon the argument, it ought to be premised that the objections of the Secretary of State and Attorney-General are founded on a general denial of the authority of the United States to erect corporations. The latter, indeed, expressly admits, that if there be any thing in the bill which is not warranted by the Constitution, it is the clause of incorporation.

Now it appears to the Secretary of the Treasury that this *general principle* is *inherent* in the very *definition* of government, and *essential* to every step of the progress to be made by that of the United States, namely: That every power vested in a government is in its nature *sovereign*, and includes, by *force* of the *term*, a right to employ all the *means* requisite and fairly applicable to the attainment of the *ends* of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral, or not contrary to the *essential ends* of political society.

This principle, in its application to government in general, would be admitted as an axiom; and it will be incumbent upon those who may incline to deny it, to prove a distinction, and to show that a rule which, in the general system of things, is essential to the preservation of the social order, is inapplicable to the United States.

The circumstance that the powers of sovereignty are in this country divided between the National and State governments, does not afford the distinction required. It does not follow from this, that each of the portion of *powers* delegated to the one or to the other, is not sovereign with *regard to its proper objects*. It will only *follow* from it, that each has sovereign power as to *certain things*, and not as to *other things*. To deny that the government of the United States has sovereign power, as to its declared purposes and trusts, because its power does not extend to all cases, would be equally to deny that the State governments have sovereign power in any case, because their power does not extend to every case. The tenth section of the first article of the Constitution exhibits a long list of very important things which they may not do. And thus the United States would furnish the singular spectacle of a *political society* without *sovereignty*, or of a *people governed*, without *government*.

If it would be necessary to bring proof to a proposition so clear, as that which affirms that the powers of the federal government, as to *its objects*, were sovereign, there is a clause of its Constitution which would be decisive. It is that which declares that the Constitution, and the laws of the United States made in pursuance of it, and all treaties made, or which shall be made, under their authority, shall be the *supreme law of the land*. The power which can create the *supreme law of the land* in *any case*, is doubtless *sovereign* as to such case.

This general and indisputable principle puts at once an end to the *abstract* question, whether the United States have power to erect a *corporation;* that is to say, to give a *legal* or *artificial capacity* to one or more persons, distinct from the *natural*. For it is unquestionably incident to *sovereign power* to erect corporations, and consequently to *that* of the United States, in *relation* to the *objects* intrusted to the management of the government. The difference is this: where the authority of the government is general, it can create corporations in *all cases;* where it is confined to certain branches of legislation, it can create corporations *only* in those cases.

Here then, as far as concerns the reasonings of the Secretary of State and the Attorney-General, the affirmative of the constitutionality of the bill might be permitted to rest. It will occur to the President, that the principle here advanced has been untouched by either of them.

For a more complete elucidation of the point, nevertheless, the arguments which they had used against the power of the government to erect corporations, however foreign they are to the great and fundamental rule which has been stated, shall be particularly examined. And after showing that they do not tend to impair its force, it shall also be shown that the power of incorporation, incident to the government in certain cases, does fairly extend to the particular case which is the object of the bill.

The first of these arguments is, that the foundation of the Constitution is laid on this ground: "That all powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved for the States, or to the people."

Whence it is meant to be inferred, that Congress can in no case exercise any power not included in those not enumerated in the Constitution. And it is affirmed, that the power of erecting a corporation is not included in any of the enumerated powers.

The main proposition here laid down, in its true signification is not to be questioned. It is nothing more than a consequence of this republican maxim, that all government is a delegation of power. But how much is delegated in each case, is a question of fact, to be made out by fair reasoning and construction, upon the particular provisions of the Constitution, taking as guides the general principles and general ends of governments.

It is not denied that there are *implied*, as well as *express powers*, and that the *former* are as effectually delegated as the *latter*. And for the sake of accuracy it shall be mentioned, that there is another class of powers, which may be properly denominated *resulting powers*. It will not be doubted, that if the United States should make a conquest of any of the territories of its neighbors, they would possess sovereign jurisdiction over the conquered territory. This would be rather a result, from the whole mass of the powers of the government, and from the nature of political society, than a consequence of either of the powers specially enumerated.

But be this as it may, it furnishes a striking illustration of the general doctrine contended for; it shows an extensive case, in which a power of erecting corporations is either implied in, or would result from, some or all of the powers vested in the national government. The jurisdiction acquired over such conquered country would certainly be competent to any species of legislation.

To return:—It is conceded that *implied powers* are to be considered as delegated equally with *express ones*. Then it follows, that as a power of erecting a corporation may as well be *implied* as any other thing, it may as well be employed as an *instrument* or *mean* of carrying into execution any of the specified powers, as any other *instrument* or *mean* whatever. The only question must be, in this, as in every other case, whether the mean to be employed, or in this instance, the corporation to be erected, has

a natural relation to any of the acknowledged objects or lawful ends of the government. Thus a corporation may not be erected by Congress for superintending the police of the city of Philadelphia, because they are not authorized to *regulate* the *police* of that city. But one may be erected in relation to the collection of taxes, or to the trade with foreign countries, or to the trade between the States, or with the Indian tribes; because it is the province of the federal government to *regulate* those objects, and because it is incident to a general *sovereign* or *legislative* power to *regulate* a thing, to employ all the means which relate to its regulation to the best and greatest advantage.

A strange fallacy seems to have crept into the manner of thinking and reasoning upon the subject. Imagination appears to have been unusually busy concerning it. An incorporation seems to have been regarded as some *great independent substantive thing;* as a political end of peculiar magnitude and moment; whereas it is truly to be considered as a *quality, capacity,* or *mean* to an end. Thus a mercantile company is formed, with a certain capital, for the purpose of carrying on a particular branch of business. Here the business to be prosecuted is the end. The association, in order to form the requisite capital, is the primary mean. Suppose that an incorporation were added to this, it would only be to add a new *quality* to that association, to give it an artificial capacity, by which it would be enabled to prosecute the business with more safety and convenience.

That the importance of the power of incorporation has been exaggerated, leading to erroneous conclusions, will further appear from tracing it to its origin. The Roman law is the source of it, according to which a *voluntary* association of individuals, at *any time*, or for any purpose, was capable of producing it. In England, whence our notions of it are immediately borrowed, it forms part of the executive authority, and the exercise of it has been often *delegated* by that authority. Whence, therefore, the ground of the supposition that it lies beyond the reach of all those very important portions of sovereign power, legislative as well as executive, which belongs to the government of the United States?

Through this mode of reasoning respecting the right of employing all the means requisite to the execution of the specified powers of the government, it is objected, that none but necessary and proper means are to be employed; and the Secretary of State maintains, that no means are to be considered as *necessary* but those without which the grant of the power would be *nugatory*. Nay, so far does he go in his restrictive interpretation of the *word*, as even to make the case of *necessity* which shall warrant the constitutional exercise of the power to depend on *casual* and *temporary* circumstances; an idea which alone refutes the construction. The *expediency* of exercising a particular power, at a particular time, must, indeed, depend on circumstances; but the constitutional right of exercising it must be uniform and invariable, the same to-day as to-morrow.

All the arguments, therefore, against the constitutionality of the bill derived from the accidental existence of certain State banks,—institutions which happen to exist to-day, and, for aught that concerns the government of the United States, may disappear to-morrow,—must not only be rejected as fallacious, but must be viewed as demonstrative that there is a *radical* source of error in the reasoning.

It is essential to the being of the national government, that so erroneous a conception of the meaning of the word *necessary* should be exploded.

It is certain, that neither the grammatical nor popular sense of the term requires that construction. According to both, *necessary* often means no more than *needful*, *requisite*, *incidental*, *useful*, or *conducive to*. It is a common mode of expression to say, that it is *necessary* for a government or a person to do this or that thing, when nothing more is intended or understood, than that the interests of the government or person require, or will be promoted by, the doing of this or that thing. The imagination can be at no loss for exemplifications of the use of the word in this sense. And it is the true one in which it is to be understood as used in the Constitution. The whole turn of the clause containing it indicates, that it was the intent of the Convention, by that clause, to give a liberal latitude to the exercise of the specified

powers. The expressions have peculiar comprehensiveness. They are, "to make all *laws* necessary and proper for *carrying into execution* the *foregoing powers*, and *all other powers* vested by the Constitution in the *government* of the United States, or in any *department* or *officer* thereof."

To understand the word as the Secretary of State does, would be to depart from its obvious and popular sense, and to give it a restrictive operation, an idea never before entertained. It would be to give it the same force as if the word *absolutely* or *indispensably* had been prefixed to it.

Such a construction would beget endless uncertainty and embarrassment. The cases must be palpable and extreme, in which it could be pronounced, with certainty, that a measure was absolutely necessary, or one, without which, the exercise of a given power would be nugatory. There are few measures of any government which would stand so severe a test. To insist upon it, would be to make the criterion of the exercise of any implied power, a *case of extreme necessity;* which is rather a rule to justify the overleaping of the bounds of constitutional authority, than to govern the ordinary exercise of it.

It may be truly said of every government, as well as of that of the United States, that it has only a right to pass such laws as are necessary and proper to accomplish the objects intrusted to it. For no government has a right to do *merely what it pleases.* Hence, by a process of reasoning similar to that of the Secretary of State, it might be proved that neither of the State governments has a right to incorporate a bank. It might be shown that all the public business of the state could be performed without a bank, and inferring thence that it was unnecessary, it might be argued that it could not be done, because it is against the rule which has been just mentioned. A like mode of reasoning would prove that there was no power to incorporate the inhabitants of a town, with a view to a more perfect police. For it is certain that an incorporation may be dispensed with, though it is better to have one. It is to be remembered that there is no *express* power in any State constitution to erect corporations.

The *degree* in which a measure is necessary, can never be a

*test* of the legal right to adopt it; that must be a matter of opinion, and can only be a *test* of expediency. The *relation* between the *measure* and the *end;* between the *nature* of the *mean* employed towards the execution of a power, and the object of that power, must be the criterion of constitutionality, not the more or less of *necessity* or *utility.*

The practice of the government is against the rule of construction advocated by the Secretary of State. Of this, the Act concerning light-houses, beacons, buoys, and public piers, is a decisive example. This, doubtless, must be referred to the powers of regulating trade, and is fairly relative to it. But it cannot be affirmed that the exercise of that power in this instance was strictly *necessary*, or that the power itself would be *nugatory*, without that of regulating establishments of this nature.

This restrictive interpretation of the word *necessary* is also contrary to this sound maxim of construction; namely, that the powers contained in a constitution of government, especially those which concern the general administration of the affairs of a country, its finances, trade, defence, &c., ought to be construed liberally in advancement of the public good. This rule does not depend on the particular form of a government, or on the particular demarkation of the boundaries of its powers, but on the nature and objects of government itself. The means by which national exigencies are to be provided for, national inconveniences obviated, national prosperity promoted, are of such infinite variety, extent, and complexity, that there must of necessity be great latitude of discretion in the selection and application of those means. Hence, consequently, the necessity and propriety of exercising the authorities intrusted to a government on principles of liberal construction.

The Attorney-General admits the *rule*, but takes a distinction between a State and the Federal Constitution. The latter, he thinks, ought to be construed with greater strictness, because there is more danger of error in defining *partial* than *general* powers. But the reason of the *rule* forbids such a distinction. This reason is, the variety and extent of public exigencies, a far greater proportion of which, and of a far more critical kind, are

objects of *National* than of *State* administration. The greater danger of error, as far as it is supposable, may be a prudential reason for caution in practice, but it cannot be a rule of restrictive interpretation.

In regard to the clause of the Constitution immediately under consideration, it is admitted by the Attorney-General, that no *restrictive* effect can be ascribed to it. He defines the word *necessary* thus: "To be *necessary* is to be *incidental*, and may be denominated the natural means of executing a power."

But while on the one hand the construction of the Secretary of State is deemed inadmissible, it will not be contended, on the other, that the clause in question gives any *new* or *independent* power. But it gives an explicit sanction to the doctrine of *implied powers*, and is equivalent to an admission of the proposition that the government, as to its *specified powers* and *objects*, has plenary and sovereign authority, in some cases paramount to the States; in others, co-ordinate with it. For such is the plain import of the declaration, that it may pass all *laws* necessary and proper to carry into execution those powers.

It is no valid objection to the doctrine to say, that it is calculated to extend the power of the general government throughout the entire sphere of State legislation. The same thing has been said, and may be said, with regard to every exercise of power by *implication* or *construction*.

The moment the literal meaning is departed from, there is a chance of error and abuse. And yet an adherence to the letter of its powers would at once arrest the motions of government. It is not only agreed, on all hands, that the exercise of constructive powers is indispensable, but every act which has been passed is more or less an exemplification of it. One has been already mentioned—that relating to light-houses, &c.—that which declares the power of the President to remove officers at pleasure, acknowledges the same truth in another and a signal instance.

The truth is, that difficulties on this point are inherent in the nature of the Federal Constitution; they result inevitably from a division of the legislative power. The consequence of this

division is, that there will be cases clearly within the power of the national government; others, clearly without its powers; and a third class, which will leave room for controversy and difference of opinion, and concerning which a reasonable latitude of judgment must be allowed.

But the doctrine which is contended for is not chargeable with the consequences imputed to it. It does not affirm that the national government is sovereign in all respects, but that it is sovereign to a certain extent; that is, to the extent of the objects of its specified powers.

It leaves, therefore, a criterion of what is constitutional, and of what is not so. This criterion is the *end*, to which the measure relates as a *mean*. If the *end* be clearly comprehended within any of the specified powers, and if the measure have an obvious relation to that *end*, and is not forbidden by any particular provision of the Constitution, it may safely be deemed to come within the compass of the national authority. There is also this further criterion, which may materially assist the decision: Does the proposed measure abridge a pre-existing right of any State or of any individual? If it does not, there is a strong presumption in favor of its constitutionality, and slighter relations to any declared object of the Constitution may be permitted to turn the scale.

The general objections, which are to be inferred from the reasonings of the Secretary of State and Attorney-General, to the doctrine which has been advanced, have been stated, and it is hoped satisfactorily answered. Those of a more particular nature shall now be examined.

The Secretary of State introduces his opinion with an observation, that the proposed incorporation undertakes to create certain capacities, properties, or attributes, which are against the laws of *alienage*, *descents*, *escheat*, and *forfeiture*, *distribution* and *monopoly*, and to confer a power to make laws paramount to those of the States. And nothing, says he, in another place, but *necessity*, *invincible* by *other means*, can justify such a *prostration* of laws, which constitute the pillars of our whole system of jurisprudence, and are the foundation laws of the State governments.

If these are truly the foundation laws of the several States, then have most of them subverted their own foundations. For there is scarcely one of them which has not, since the establishment of its particular constitution, made material alterations in some of those branches of its jurisprudence, especially the law of descents. But it is not conceived how any thing can be called the fundamental law of a State government which is not established in its constitution, unalterable by the ordinary legislature. And, with regard to the question of necessity, it has been shown that this can only constitute a question of expediency, not of right.

To erect a corporation, is to substitute a *legal* or *artificial* to a *natural* person, and where a number are concerned, to give them *individuality*. To that *legal* or *artificial* person, once created, the common law of every State, of itself, annexes all those incidents and attributes which are represented as a prostration of the main pillars of their jurisprudence.

It is certainly not accurate to say, that the erection of a corporation is *against* those different *heads* of the State laws; because it is rather to create a kind of person or entity, to which they are inapplicable, and to which the general rule of those laws assign a different regimen. The laws of alienage cannot apply to an artificial person, because it can have no country; those of descent cannot apply to it, because it can have no heirs; those of escheat are foreign from it, for the same reason; those of forfeiture, because it cannot commit a crime; those of distribution, because, though it may be dissolved, it cannot die.

As truly might it be said, that the exercise of the power of prescribing the rule by which foreigners shall be naturalized, is against the law of alienage, while it is, in fact, only to put them in a situation to cease to be the subject of that law. To do a thing which is against a law, is to do something which it forbids, or which is a violation of it.

But if it were even to be admitted that the erection of a corporation is a direct alteration of the stated laws, in the enumerated particulars, it would do nothing towards proving that the measure was unconstitutional. If the government of the United

States can do no act which amounts to an alteration of a State law, all its powers are nugatory; for almost every new law is an alteration, in some way or other, of an *old law*, either *common* or *statute*.

There are laws concerning bankruptcy in some States. Some States have laws regulating the values of foreign coins. Congress are empowered to establish uniform laws concerning bankruptcy throughout the United States, and to regulate the values of foreign coins. The exercise of either of these powers by Congress, necessarily involves an alteration of the laws of those States.

Again. Every person, by the common law of each State, may export his property to foreign countries, at pleasure. But Congress, in pursuance of the power of regulating trade, may *prohibit* the exportation of commodities; in doing which, they would alter the common law of each State, in abridgment of individual right.

It can therefore never be good reasoning to say this or that act is unconstitutional, because it alters this or that law of a State. It must be shown that the act which makes the alteration is unconstitutional on other accounts; not *because* it makes the alteration.

There are two points in the suggestions of the Secretary of State, which have been noted, that are peculiarly incorrect. One is, that the proposed incorporation is against the laws of monopoly, because it stipulates an exclusive right of banking under the national authority; the other, that it gives power to the institution to make laws paramount to those of the States.

But, with regard to the first point: The bill neither prohibits any State from erecting as many banks as they please, nor any number of individuals from associating to carry on the business, and consequently, is free from the charge of establishing a monopoly; for monopoly implies a *legal impediment* to the carrying on of the trade by others than those to whom it is granted.

And with regard to the second point, there is still less

foundation. The by-laws of such an institution as a bank can operate only on its own members—can only concern the disposition of its own property, and must essentially resemble the rules of a private mercantile partnership. They are expressly not to be contrary to law; and law must here mean the law of a State, as well as of the United States. There never can be a doubt, that a law of a corporation, if contrary to a law of a State, must be overruled as void, unless the law of the State is contrary to that of the United States, and then the question will not be between the law of the State and that of the corporation, but between the law of the State and that of the United States.

Another argument made use of by the Secretary of State is, the rejection of a proposition by the Convention to empower Congress to make corporations, either generally, or for some special purpose.

What was the precise nature or extent of this proposition, or what the reasons for refusing it, is not ascertained by any authentic document, or even by accurate recollection. As far as any such document exists, it specifies only canals. If this was the amount of it, it would, at most, only prove that it was thought inexpedient to give a power to incorporate for the purpose of opening canals, for which purpose a special power would have been necessary, except with regard to the western territory, there being nothing in any part of the Constitution respecting the regulation of canals. It must be confessed, however, that very different accounts are given of the import of the proposition, and of the motives for rejecting it. Some affirm, that it was confined to the opening of canals and obstructions in rivers; others, that it embraced banks; and others, that it extended to the power of incorporating generally. Some, again, allege, that it was disagreed to because it was thought improper to vest in Congress a power of erecting corporations. Others, because it was thought unnecessary to *specify* the power, and inexpedient to furnish an additional topic of objection to the Constitution. In this state of the matter, no inference whatever can be drawn from it.

But whatever may have been the nature of the proposition,

or the reasons for rejecting it, includes nothing in respect to the real merits of the question. The Secretary of State will not deny, that, whatever may have been the intention of the framers of a constitution, or of a law, that intention is to be sought for in the instrument itself, according to the usual and established rules of construction. Nothing is more common than for laws to *express* and *effect* more or less than was intended. If, then, a power to erect a corporation in any case be deducible, by fair inference, from the whole or any part of the numerous provisions of the Constitution of the United States, arguments drawn from extrinsic circumstances regarding the intention of the Convention must be rejected.

Most of the arguments of the Secretary of State, which have not been considered in the foregoing remarks, are of a nature rather to apply to the expediency than to the constitutionality of the bill. They will, however, be noticed in the discussions which will be necessary in reference to the particular heads of the powers of the government which are involved in the question.

Those of the Attorney-General will now properly come under view.

His first objection is, that the power of incorporation is not *expressly* given to Congress. This shall be conceded, but in *this sense only*, that it is not declared in *express terms* that Congress may erect a corporation. But this cannot mean, that there are not certain *express powers* which *necessarily* include it. For instance, Congress have express power to exercise exclusive legislation, in all cases whatsoever, over such *district* (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States; and to exercise *like authority* over all places purchased, by consent of the legislature of the State in which the same shall be, for the erection of forts, arsenals, dock-yards, and other needful buildings. Here, then, is express power to exercise *exclusive legislation*, in *all cases whatsoever*, over *certain places;* that is, to do, in respect to those places, all that any government whatsoever may do. For language does not afford a more complete designation of sovereign power than in those comprehensive

terms. It is, in other words, a power to pass all laws whatsoever, and, consequently, to pass laws for erecting corporations, as well as for any other purpose which is the proper object of law in a free government.

Surely it can never be believed that Congress, with *exclusive powers of legislation in all cases* whatsoever, cannot erect a corporation within the district which shall become the seat of government, for the better regulation of its police. And yet there is an unqualified denial of the power to erect corporations in every case, on the part both of the Secretary of State and of the Attorney-General; the former, indeed, speaks of that power in these emphatical terms: That it is a *right remaining exclusively with the States.*

As far, then, as there is an *express power* to do any *particular act of legislation*, there is an *express one* to erect a corporation in the case above described. But, accurately speaking, no *particular power* is more than *that implied in a general one.* Thus the power to lay a duty on a *gallon of rum* is only a particular *implied* in the general power to lay and collect taxes, duties, imposts, and excises. This serves to explain in what sense it may be said that Congress have not an express power to make corporations.

This may not be an improper place to take notice of an argument which was used in debate in the House of Representatives. It was there argued, that if the Constitution intended to confer so important a power as that of erecting corporations, it would have been expressly mentioned. But the case which has been noticed is clearly one in which such a power exists, and yet without any specification or express grant of it, further than as every *particular implied* in a general power can be said to be so granted.

But the argument itself is founded upon an exaggerated and erroneous conception of the nature of the power. It has been shown that it is not of so transcendent a kind as the reasoning supposes, and that, viewed in a just light, it is a mean, which ought to have been left to *implication*, rather than an *end*, which ought to have been expressly granted.

Having observed that the power of erecting corporations is

not expressly granted to Congress, the Attorney-General proceeds thus:—

"If it can be exercised by them, it must be—

"1. Because the nature of the federal government implies it.

"2. Because it is involved in some of the specified powers of legislation.

"3. Because it is necessary and proper to carry into execution some of the specified powers."

To be implied in the *nature* of the *federal government*, says he, would beget a doctrine so indefinite as to grasp at every power.

This proposition, it ought to be remarked, is not precisely, or even substantially, that which has been relied upon. The proposition relied upon is, that the *specified powers of Congress* are in their nature *sovereign*. That it is incident to sovereign power to erect corporations, and that therefore Congress have a right, within the *sphere* and in *relation* to the *objects of their power*, to *erect corporations*. It shall, however, be supposed that the Attorney-General would consider the two propositions in the same light, and that the objection made to the one would be made to the other.

To this objection an answer has been already given. It is this, that the doctrine is stated with this *express qualification*, that the right to erect corporations does *only* extend to *cases* and *objects* within the *sphere* of the *specified powers* of the *government*. A *general* legislative authority implies a power to erect corporations in *all cases*. A *particular* legislative power implies authority to erect corporations in relation to cases arising under *that power only*. Hence the affirming that, as *incident* to sovereign power, Congress may erect a corporation in relation to the *collection* of their taxes, is no more than to affirm that they may do whatever else they please,—than the saying that they have a power to regulate trade, would be to affirm that they have a power to regulate religion; or than the maintaining that they have sovereign power as to taxation, would be to maintain that they have sovereign power as to every thing else.

The Attorney-General undertakes in the next place to show, that the power of erecting corporations is not involved in any

of the specified powers of legislation confided to the national government. In order to this, he has attempted an enumeration of the particulars, which he supposes to be comprehended under the several heads of the *powers* to lay and collect taxes, &c.; to borrow money on the credit of the United States; to regulate commerce with sovereign nations; between the States, and with the Indian tribes; to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. The design of which enumeration is to show, *what* is included under those different heads of power, and negatively, that the power of erecting corporations is not included.

The truth of this inference or conclusion must depend on the accuracy of the enumeration. If it can be shown that the enumeration is *defective*, the inference is destroyed. To do this will be attended with no difficulty.

The heads of the power to lay and collect taxes are stated to be:

1. To stipulate the sum to be lent.
2. An interest or no interest to be paid.
3. The time and manner of repaying, unless the loan be placed on an irredeemable fund.

This enumeration is liable to a variety of objections. It omits in the first place, the *pledging* or *mortgaginy* of a fund for the security of the money lent, an usual, and in most cases an essential ingredient.

The idea of a stipulation of an *interest* or no *interest* is too confined. It should rather have been said, to stipulate the *consideration* of the loan. Individuals often borrow on considerations other than the payment of interest, so may governments, and so they often find it necessary to do. Every one recollects the lottery tickets and other douceurs often given in Great Britain as collateral inducements to the lending of money to the government. There are also frequently collateral conditions, which the enumeration does not contemplate. Every contract which has been made for moneys borrowed in Holland, induces stipulations that the sum due shall be *free* from *taxes*, and from sequestration in time of war, and mortgages all the land and property of the United States for the reimbursement.

It is also known that a lottery is a common expedient for borrowing money, which certainly does not fall under either of the enumerated heads.

The heads of the power to regulate commerce with foreign nations, are stated to be:

1. To prohibit them or their commodities from our ports.

2. To impose duties on *them*, where none existed before, or to increase *existing* duties on them.

3. To subject *them* to any species of custom-house regulation.

4. To grant *them* any exemptions or privileges which policy may suggest.

This enumeration is far more exceptionable than either of the former. It omits *every thing* that relates to the *citizens' vessels*, or *commodities* of the United States.

The following palpable omissions occur at once:

1. Of the power to prohibit the exportation of commodities, which not only exists at all times, but which in time of war it would be necessary to exercise, particularly with relation to naval and warlike stores.

2. Of the power to prescribe rules concerning the *characteristics* and privileges of an American bottom; how she shall be navigated, or whether by citizens or foreigners, or by a proportion of each.

3. Of the power of regulating the manner of contracting with seamen; the police of ships on their voyages, &c., of which the Act for the government and regulation of seamen, in the merchants' service, is a specimen.

That the three preceding articles are omissions, will not be doubted—there is a long list of items in addition, which admit of little, if any question, of which a few samples shall be given.

1. The granting of bounties to certain kinds of vessels, and certain species of merchandise of this nature, is the allowance on dried and pickled fish and salted provisions.

2. The prescribing of rules concerning the *inspection* of commodities to be exported. Though the States individually are competent to this regulation, yet there is no reason, in point of authority at least, why a general system might not be adopted by the United States.

3. The regulation of policies of insurance; of salvage upon goods found at sea, and the disposition of such goods.

4. The regulation of pilots.

5. The regulation of bills of exchange drawn by a merchant of *one State* upon a merchant of *another State*. This last rather belongs to the regulation of trade between the States, but is equally omitted in the specification under that head.

The last enumeration relates to the power to dispose of, and make all *needful rules* and *regulations* respecting the territory or *other property* belonging to the United States.

The heads of this power are said to be:

1. To exert an ownership over the territory of the United States, which may be properly called the property of the United States, as in the western territory, and to *institute a government therein*, or

2. To exert an ownership over the other property of the United States.

The idea of exerting an ownership over the territory or other property of the United States, is particularly indefinite and vague. It does not at all satisfy the conception of what must have been intended by a power to make all *needful rules* and *regulations*, nor would there have been any use for a special clause, which authorized nothing more. For the right of exerting an ownership is implied in the very definition of property. It is admitted, that in regard to the western territory, something more is intended; even the institution of a government, that is, the creation of a body politic, or corporation of the highest nature; one which, in its maturity, will be able itself to create other corporations. Why, then, does not the same clause authorize the erection of a corporation, in respect to the regulation or disposal of any other of the property of the United States?

This idea will be enlarged upon in another place.

Hence it appears, that the enumerations which have been attempted by the Attorney-General, are so imperfect, as to authorize no conclusion whatever; they therefore have no tendency to disprove that each and every of the powers, to which they relate, includes that of erecting corporations, which they cer-

tainly do, as the subsequent illustrations will more and more evince.

It is presumed to have been satisfactorily shown in the course of the preceding observations:

1. That the power of the government, *as* to the objects intrusted to its management, is, in its nature, sovereign.

2. That the right of erecting corporations is one inherent in, and inseparable from, the idea of sovereign power.

3. That the position, that the government of the United States can exercise no power but such as is delegated to it by its Constitution, does not militate against this principle.

4. That the word *necessary*, in the general clause, can have no *restrictive* operation derogating from the force of this principle; indeed, that the degree in which a measure is or is not *necessary*, cannot be a *test* of *constitutional right*, but of *expediency only*.

5. That the power to erect corporations is not to be considered as an *independent* or *substantive* power, but as an *incidental* and *auxiliary* one, and was therefore more properly left to implication, than expressly granted.

6. That the principle in question does not extend the power of the government beyond the prescribed limits, because it only affirms a power to *incorporate* for purposes *within the sphere* of the *specified powers*.

And lastly, that the right to exercise such a power in certain cases is unequivocally granted in the most *positive* and *comprehensive* terms. To all which it only remains to be added, that such a power has actually been exercised in two very eminent instances; namely, in the erection of two governments; one northwest of the River Ohio, and the other southwest—the last independent of any antecedent compact. And these result in a full and complete demonstration, that the Secretary of State and Attorney-General are mistaken when they deny generally the power of the national government to erect corporations.

It shall now be endeavored to be shown that there is a power to erect one of the kind proposed by the bill. This will be done by tracing a natural and obvious relation between the institution of a bank and the objects of several of the enumerated powers

of the government; and by showing that, *politically* speaking, it is necessary to the effectual execution of one or more of those powers.

In the course of this investigation, various instances will be stated, by way of illustration of a right to erect corporations under those powers.

Some preliminary observations may be proper.

The proposed bank is to consist of an association of persons, for the purpose of creating a joint capital, to be employed chiefly and essentially in loans. So far the object is not only lawful, but it is the mere exercise of a right which the law allows to every individual. The Bank of New-York, which is not incorporated, is an example of such an association. The bill proposes in addition, that the government shall become a joint proprietor in this undertaking, and that it shall permit the bills of the company, payable on demand, to be receivable in its revenues; and stipulates that it shall not grant privileges, similar to those which are to be allowed to this company, to any others. All this is incontrovertibly within the compass of the discretion of the government. The only question is, whether it has a right to incorporate this company, in order to enable it the more effectually to accomplish ends which are in themselves lawful.

To establish such a right, it remains to show the relation of such an institution to one or more of the specified powers of the government. Accordingly it is affirmed that it has a relation, more or less direct, to the power of collecting taxes, to that of borrowing money, to that of regulating trade between the States, and to those of raising and maintaining fleets and armies. To the two former the relation may be said to be immediate; and in the last place it will be argued, that it is clearly within the provision which authorizes the making of all *needful rules and regulations* concerning the *property* of the United States, as the same has been practised upon by the government.

A bank relates to the collection of taxes in two ways—*indirectly*, by increasing the quantity of circulating medium and quickening circulation, which facilitates the means of paying directly, by creating a *convenient species* of medium in which they are to be paid.

To designate or appoint the *money* or *thing* in which taxes are to be paid, is not only a proper, but a *necessary exercise* of the power of collecting them. Accordingly Congress, in the law concerning the collection of the duties on imposts and tonnage, have provided that they shall be paid in gold and silver. But while it was an indispensable part of the work to say in what they should be paid, the choice of the specific thing was mere matter of discretion. The payment might have been required in the commodities themselves. Taxes in kind, however ill-judged, are not without precedents, even in the United States; or it might have been in the paper money of the several States, or in the bills of the Bank of North America, New-York and Massachusetts, all or either of them; or it might have been in bills issued under the authority of the United States.

No part of this can, it is presumed, be disputed. The appointment, then, of the *money* or *thing* in which the taxes are to be paid, is an incident to the power of collection. And among the expedients which may be adopted, is that of bills issued under the authority of the United States.

Now the manner of issuing these bills is again matter of discretion. The government might doubtless proceed in the following manner:

It might provide that they should be issued under the direction of certain officers, payable on demand; and, in order to support their credit, and give them a ready circulation, it might, besides giving them a currency in its taxes, set apart, out of any moneys in its treasury, a given sum, and appropriate it, under the direction of those officers, as a fund for answering the bills, as presented for payment.

The constitutionality of all this would not admit of a question, and yet it would amount to the institution of a bank, with a view to the more convenient collection of taxes. For the simplest and most precise idea of a bank is, a deposit of coin, or other property, as a fund for *circulating* a *credit* upon it, which is to answer the purpose of money. That such an arrangement would be equivalent to the establishment of a bank, would become obvious, if the place where the fund to be set apart was

kept should be made a receptacle of the moneys of all other persons who should incline to deposit them there for safe-keeping; and would become still more so, if the officers charged with the direction of the fund were authorized to make discounts at the usual rate of interest, upon good security. To deny the power of the government to add these ingredients to the plan, would be to refine away all government.

A further process will still more clearly illustrate the point. Suppose, when the species of bank which has been described was about to be instituted, it was to be urged that, in order to secure to it a due degree of confidence, the fund ought not only to be set apart and appropriated generally, but ought to be specifically vested in the officers who were to have the direction of it, and in their *successors* in office, to the end that it might acquire the character of *private property*, incapable of being resumed without a violation of the sanctions by which the rights of property are protected, and occasioning more serious and general alarm—the apprehension of which might operate as a check upon the government. Such a proposition might be opposed by arguments against the expediency of it, or the solidity of the reason assigned for it, but it is not conceivable what could be urged against its constitutionality; and yet such a disposition of the thing would amount to the erection of a corporation; for the true definition of a corporation seems to be this: It is a *legal* person, or a person created by act of law, consisting of one or more natural persons authorized to hold property, or a franchise in succession, in a legal, as contradistinguished from natural, capacity.

Let the illustration proceed a step further. Suppose a bank of the nature which has been described, with or without incorporation, had been instituted, and that experience had evinced, as it probably would, that, being wholly under a public direction, it possessed not the confidence requisite to the credit of the bills. Suppose, also, that, by some of those adverse conjunctures which occasionally attend nations, there had been a very great drain of the specie of the country, so as not only to cause general distress for want of an adequate medium of circulation, but to produce,

in consequence of that circumstance, considerable defalcations in the public revenues. Suppose, also, that there was no bank instituted in any State; in such a posture of things, would it not be most manifest, that the incorporation of a bank like that proposed by the bill would be a measure immediately relative to the *effectual collection* of the taxes, and completely within the province of the sovereign power of providing, by all laws necessary and proper, for that collection? If it be said, that such a state of things would render that necessary, and therefore constitutional, which is not so now, the answer to this, and a solid one it doubtless is, must still be that which has been already stated—circumstances may affect the expediency of the measure, but they can neither add to nor diminish its constitutionality.

A bank has a direct relation to the power of borrowing money, because it is an usual, and in sudden emergencies an essential, instrument in the obtaining of loans to government.

A nation is threatened with a war; large sums are wanted on a sudden to make the requisite preparations. Taxes are laid for the purpose, but it requires time to obtain the benefit of them. Anticipation is indispensable. If there be a bank, the supply can at once be had. If there be none, loans from individuals must be sought. The progress of these is often too slow for the exigency; in some situations they are not practicable at all. Frequently, when they are, it is of great consequence to be able to anticipate the product of them by advance from a bank.

The essentiality of such an institution as an instrument of loans, is exemplified at this very moment. An Indian expedition is to be prosecuted. The only fund, out of which the money can arise, consistently with the public engagements, is a tax, which only begins to be collected in July next. The preparations, however, are instantly to be made. The money must, therefore, be borrowed—and of whom could it be borrowed if there were no public banks?

It happens that there are institutions of this kind, but if there were none, it would be indispensable to create one.

Let it then be supposed that the necessity existed, (as but for a casualty would be the case,) that proposals were made for ob-

taining a loan; that a number of individuals came forward and said, we are willing to accommodate the government with the money; with what we have in hand, and the credit we can raise upon it, we doubt not of being able to furnish the sum required; but in order to this, it is indispensable that we should be incorporated as a bank. This is essential towards putting it in our power to do what is desired, and we are obliged on that account to make it the *consideration* or *condition* of the loan.

Can it be believed that a compliance with this proposition would be unconstitutional? Does not this alone evince the contrary? It is a necessary part of a power to borrow, to be able to stipulate the consideration or conditions of a loan. It is evident, as has been remarked elsewhere, that this is not confined to the mere stipulation of a *franchise*. If it may, and it is not perceived why it may not, then the grant of a corporate capacity may be stipulated as a consideration of the loan. There seems to be nothing unfit or foreign from the nature of the thing in giving individuality, or a corporate capacity to a number of persons, who are willing to lend a sum of money to the government, the better to enable them to do it, and make them an ordinary instrument of loans in future emergencies of the state. But the more general view of the subject is still more satisfactory. The legislative power of borrowing money, and of making all laws necessary and proper for carrying into execution that power, seems obviously competent to the appointment of the *organ*, through which the abilities and wills of individuals may be most efficaciously exerted for the accommodation of the government by loans.

The Attorney-General opposes to this reasoning the following observation:—"Borrowing money presupposes the accumulation of a fund to be lent, and is secondary to the creation of an ability to lend." This is plausible in theory, but is not true in fact. In a great number of cases, a previous accumulation of a fund equal to the whole sum required does not exist. And nothing more can be actually presupposed, than that there exists resources, which, put into activity to the greatest advantage by the nature of the operation with the government, will be equal to the effect

desired to be produced. All the provisions and operations of government must be presumed to contemplate as they *really* are.

The institution of a bank has also a natural relation to the regulation of trade between the States, in so far as it is conducive to the creation of a convenient medium of *exchange* between them, and to the keeping up a full circulation, by preventing the frequent displacement of the metals in reciprocal remittances. Money is the very hinge on which commerce turns. And this does not merely mean gold and silver; many other things have served the purpose, with different degrees of utility. Paper has been extensively employed.

It cannot, therefore, be admitted, with the Attorney-General, that the regulation of trade between the States, as it concerns the medium of circulation and exchange, ought to be considered as confined to coin. It is even supposable that the whole, or the greatest part, of the coin of the country might be carried out of it.

The Secretary of State objects to the relation here insisted upon, by the following mode of reasoning:—To erect a bank, says he, and to regulate commerce, are very different acts. He who creates a bank, creates a subject of commerce; so does he who makes a bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulate commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for *buying* and *selling*.

This making the regulation of commerce to consist in prescribing rules for *buying* and *selling*—this, indeed, is a species of regulation of trade, but is one which falls more aptly within the province of the local jurisdictions than within that of the general government, whose care they must be presumed to have been intended to be directed to those general political arrangements concerning trade on which its aggregate interests depend, rather than to the details of *buying* and *selling*. Accordingly, such only are the regulations to be found in the laws of the United States, whose objects are to give encouragement to the enterprise of our own merchants, and to advance our navigation and manufactures. And it is in reference to these general relations of

commerce, that an establishment which furnishes facilities to circulation, and a convenient medium of exchange and alienation, is to be regarded as a regulation of trade.

The Secretary of State further argues, that if this was a regulation of commerce, it would be void, as *extending as much to the internal commerce of every State as to its external.* But what regulation of commerce does not extend to the internal commerce of every State? What are all the duties upon imported articles, amounting to prohibitions, but so many bounties upon domestic manufactures, affecting the interests of different classes of citizens, in different ways? What are all the provisions in the Coasting Act which relate to the trade between district and district of the same State? In short, what regulation of trade between the States but must affect the internal trade of each State? What can operate upon the whole but must extend to every part?

The relation of a bank to the execution of the powers that concern the common defence, has been anticipated. It has been noted, that, at this very moment, the aid of such an institution is essential to the measures to be pursued for the protection of our frontiers.

It now remains to show, that the incorporation of a bank is within the operation of the provision which authorizes Congress to make all needful rules and regulations concerning the property of the United States. But it is previously necessary to advert to a distinction which has been taken by the Attorney-General.

He admits that the word *property* may signify personal property, however acquired, and yet asserts that it cannot signify money arising from the sources of revenue pointed out in the Constitution, "because," says he, "the disposal and regulation of money is the final cause for raising it by taxes."

But it would be more accurate to say that the *object* to which money is intended to be applied is the *final cause* for raising it, than that the disposal and regulation of it is *such.*

The support of government—the support of troops for the common defence—the payment of the public debt, are the true *final causes* for raising money. The disposition and regulation of it, when raised, are the steps by which it is applied to the *ends*

for which it was raised, not the *ends* themselves. Hence, therefore, the money to be raised by taxes, as well as any other personal property, must be supposed to come within the meaning, as they certainly do within the letter, of authority to make all needful rules and regulations concerning the property of the United States.

A case will make this plainer. Suppose the public debt discharged, and the funds now pledged for it liberated. In some instances it would be found expedient to repeal the taxes; in others, the repeal might injure our own industry, our agriculture and manufactures. In these cases they would, of course, be retained. Here, then, would be moneys arising from the authorized sources of revenue, which would not fall within the rule by which the Attorney-General endeavors to except them from other personal property, and from the operation of the clause in question. The moneys being in the coffers of government, what is to hinder such a disposition to be made of them as is contemplated in the bill; or what an incorporation of the parties concerned, under the clause which has been cited?

It is admitted, that with regard to the western territory they give a power to erect a corporation—that is, to institute a government; and by what rule of construction can it be maintained, that the same words in a constitution of government will not have the same effect when applied to one species of property as to another, as far as the subject is capable of it?—Or that a legislative power to make all needful rules and regulations, or to pass all laws necessary and proper, concerning the public property, which is admitted to authorize an incorporation in one case, will not authorize it in another?—will justify the institution of a government over the western territory, and will not justify the incorporation of a bank for the more useful management of the moneys of the United States? If it will do the last, as well as the first, then, under this provision alone, the bill is constitutional, because it contemplates that the United States shall be joint proprietors of the stock of the bank.

There is an observation of the Secretary of State to this effect, which may require notice in this place:—Congress, says he, are

not to lay taxes *ad libitum, for any purpose they please*, but only to pay the debts or provide for the welfare of the Union. Certainly no inference can be drawn from this against the power of applying their money for the institution of a bank. It is true that they cannot without breach of trust lay taxes for any other purpose than the general welfare; but so neither can any other government. The welfare of the community is the only legitimate end for which money can be raised on the community. Congress can be considered as under only one restriction which does not apply to other governments,—they cannot rightfully apply the money they raise to any purpose merely or purely local. But, with this exception, they have as large a discretion in relation to the application of money as any legislature whatever. The constitutional *test* of a right application must always be, whether it be for a purpose of *general* or *local* nature. If the former, there can be no want of constitutional power. The quality of the object, as how far it will really promote or not the welfare of the Union, must be matter of conscientious discretion, and the arguments for or against a measure in this light must be arguments concerning expediency or inexpediency, not constitutional right. Whatever relates to the general order of the finances, to the general interests of trade, &c., being general objects, are constitutional ones for the *application of money.*

A bank, then, whose bills are to circulate in all the revenues of the country, is *evidently* a *general* object, and, for that very reason, a constitutional one, as far as regards the appropriation of money to it. Whether it will really be a beneficial one or not, is worthy of careful examination, but is no more a constitutional point, in the particular referred to, than the question, whether the western lands shall be sold for twenty or thirty cents per acre.

A hope is entertained that it has, by this time, been made to appear, to the satisfaction of the President, that a bank has a natural relation to the power of collecting taxes—to that of regulating trade—to that of providing for the common defence—and that, as the bill under consideration contemplates the government in the light of a joint proprietor of the stock of the bank,

it brings the case within the provision of the clause of the Constitution which immediately respects the property of the United States.

Under a conviction that such a relation subsists, the Secretary of the Treasury, with all deference, conceives, that it will result as a necessary consequence from the position, that all the specified powers of government are sovereign, as to the proper objects; that the incorporation of a bank is a constitutional measure; and that the objections taken to the bill, in this respect, are ill-founded.

But, from an earnest desire to give the utmost possible satisfaction to the mind of the President, on so delicate and important a subject, the Secretary of the Treasury will ask his indulgence, while he gives some additional illustrations of cases in which a power of erecting corporations may be exercised, under some of those heads of the specified powers of the government, which are alleged to include the right of incorporating a bank.

1. It does not appear susceptible of a doubt, that if Congress had thought proper to provide, in the collection laws, that the bonds to be given for the duties should be given to the collector of the district, A or B, as the case might require, to enure to him and his successors in office, in trust for the United States, that it would have been consistent with the Constitution to make such an arrangement; and yet this, it is conceived, would amount to an incorporation.

2. It is not an unusual expedient of taxation to form particular branches of revenue—that is, to mortgage or sell the product of them for certain definite sums, leaving the collection to the parties to whom they are mortgaged or sold. There are even examples of this in the United States. Suppose that there was any particular branch of revenue which it was manifestly expedient to place on this footing, and there were a number of persons willing to engage with the government, upon condition that they should be incorporated, and the sums vested in them, as well for their greater safety, as for the more convenient recovery and management of the taxes. Is it supposable that there could be any constitutional obstacle to the measure? It is

presumed that there could be none. It is certainly a mode of collection which it would be in the discretion of the government to adopt, though the circumstances must be very extraordinary that would induce the Secretary to think it expedient.

3. Suppose a new and unexplored branch of trade should present itself, with some foreign country. Suppose it was manifest, that to undertake it with advantage required an union of the capitals of a number of individuals, and that those individuals would not be disposed to embark without an incorporation, as well to obviate that consequence of a private partnership which makes every individual liable in his whole estate for the debts of the company, to their utmost extent, as for the more convenient management of the business—what reason can there be to doubt that the national government would have a constitutional right to institute and incorporate such a company? None. They possess a general authority to regulate trade with foreign countries. This is a mean, which has been practised to that end, by all the principal commercial nations, who have trading companies to this day, which have subsisted for centuries. Why may not the United States, *constitutionally,* employ the *means* usual in other countries, for attaining the *ends* intrusted to them?

A power to make all needful rules and regulations concerning territory, has been construed to mean a power to erect a government. A power to regulate trade, is a power to make all needful rules and regulations concerning trade. Why may it not, then, include that of erecting a trading company, as well as, in other cases, to erect a government?

It is remarkable that the State conventions, who had proposed amendments in relation to this point, have most, if not all of them, expressed themselves nearly thus: Congress shall not grant monopolies, nor *erect any company* with exclusive advantages of commerce! Thus, at the same time, expressing their sense, that the power to erect trading companies or corporations was inherent in Congress, and objecting to it no further than as to the grant of *exclusive* privileges.

The Secretary entertains all the doubts which prevail con-

cerning the utility of such companies, but he cannot fashion to his own mind a reason, to induce a doubt, that there is a constitutional authority in the United States to establish them. If such a reason were demanded, none could be given, unless it were this: That Congress cannot erect a corporation. Which would be no better than to say, they cannot do it, because they cannot do it—first presuming an inability, without reason, and then assigning that inability as the cause of itself. Illustrations of this kind might be multiplied without end. They shall, however, be pursued no further.

There is a sort of evidence on this point, arising from an aggregate view of the Constitution, which is of no inconsiderable weight: the very general power of laying and collecting taxes, and appropriating their proceeds—that of borrowing money indefinitely—that of coining money, and regulating foreign coins —that of making all needful rules and regulations respecting the property of the United States. These powers combined, as well as the reason and nature of the thing, speak strongly this language: that it is the manifest design and scope of the Constitution to vest in Congress all the powers requisite to the effectual administration of the finances of the United States. As far as concerns this object, there appears to be no parsimony of power.

To suppose, then, that the government is precluded from the employment of so usual and so important an instrument for the administration of its finances as that of a bank, is to suppose what does not coincide with the general tenor and complexion of the Constitution, and what is not agreeable to impressions that any new spectator would entertain concerning it.

Little less than a prohibitory clause can destroy the strong presumptions which result from the general aspect of the government. Nothing but demonstration should exclude the idea that the power exists.

In all questions of this nature, the practice of mankind ought to have great weight against the theories of individuals.

The fact, for instance, that all the principal commercial nations have made use of trading corporations or companies, for

the purpose of *external commerce*, is a satisfactory proof that the establishment of them is an incident to the regulation of the commerce.

This other fact, that banks are an usual engine in the administration of national finances, and an ordinary and the most effectual instrument of loan, and one which, in this country, has been found essential, pleads strongly against the supposition that a government, clothed with most of the most important prerogatives of sovereignty in relation to its revenues, its debts, its credits, its defence, its trade, its intercourse with foreign nations, is forbidden to make use of that instrument as an appendage to its own authority.

It has been stated as an auxiliary test of constitutional authority to try whether it abridges any pre-existing right of any State, or any individual. The proposed investigation will stand the most severe examination on this point. Each State may still erect as many banks as it pleases. Every individual may still carry on the banking business to any extent he pleases.

Another criterion may be this: whether the institution or thing has a more direct relation, as to its uses, to the objects of the reserved powers of the State governments than to those of the powers delegated by the United States. This rule, indeed, is less precise than the former; but it may still serve as some guide. Surely a bank has more reference to the objects intrusted to the national government than to those left to the care of the State governments. The common defence is decisive in this comparison.

It is presumed that nothing of consequence in the observations of the Secretary of State, and Attorney-General, has been left unnoticed.

There are, indeed, a variety of observations of the Secretary of State designed to show that the utilities ascribed to a bank, in relation to the collection of taxes, and to trade, could be obtained without it; to analyze which, would prolong the discussion beyond all bounds. It shall be forborne for two reasons. First, because the report concerning the bank, may speak for itself in this respect; and secondly, because all those observa-

tions are grounded on the erroneous idea that the *quantum* of necessity or utility is the *test* of a constitutional exercise of power.

One or two remarks only shall be made. One is, that he has taken no notice of a very essential advantage to trade in general, which is mentioned in the report, as peculiar to the existence of a bank circulation, equal in the public estimation to gold and silver. It is this that renders it unnecessary to lock up the money of the country, to accumulate for months sucessively, in order to the periodical payment of interest. The other is this: that his arguments to show that treasury orders and bills of exchange, from the course of trade, will prevent any considerable displacement of the metals, are founded on a particular view of the subject. A case will prove this. The sums collected in a State may be small in comparison with the debt due to it; the balance of its trade, direct and circuitous with the seat of government, may be even, or nearly so; here, then, without bank bills, which in that State answer the purpose of coin, there must be a displacement of the coin, in proportion to the difference between the sum collected in the State, and that to be paid in it. With bank bills, no such displacement would take place, or as far as it did, it would be gradual and insensible. In many other ways, also, would there be at least a temporary and inconvenient displacement of the coin, even where the course of trade would eventually return it to its proper channels.

The difference of the two situations in point of convenience to the treasury, can only be appreciated by one, who experiences the embarrassments of making provision for the payment of the interest on a stock, continually changing place in thirteen different places.

One thing which has been omitted, just occurs, although it is not very material to the main argument. The Secretary of State affirms that the bill only contemplates a repayment, not a loan, to the government. But here he is certainly mistaken. It is true the government invests in the stock of the bank a sum equal to that which it receives on loan. But let it be remembered, that it does not, therefore, cease to be a proprietor of the stock, which would be the case, if the money received back were

in the nature of a payment. It remains a proprietor still, and will share in the profit or loss of the institution, according as the dividend is more or less than the interest it is to pay on the sum borrowed. Hence that sum is manifestly, and in the strictest sense, a loan.

SHORT TO HAMILTON.

AMSTERDAM, Feb. 17, 1791.

SIR:

I have the honor to inform you at present that a loan for the United States for two millions and an half of guilders was brought on the market the day before yesterday morning; the terms are the same with the last, except that the commission is reduced one half per cent.; the form of the bond is now making out, and as soon as completed I will send you a copy of it. I think you will learn with pleasure, sir, that this loan (of which the rate of interest is the same with that paid by the most accredited powers here, and of which the commission is one-half of that paid by some and lower than that paid by any except the Emperor, who has no further occasion for money, and who paid the same), was all taken up and contracted for in less than two hours after being published on the exchange; a celerity of which I am told there has been no instance here before in loans for any country. This circumstance cannot fail to give a very favorable impulsion to the credit to which the United States are so justly entitled, and facilitate the views they may have here in future. I must add, also, that the accounts which are received here of the happy effects of our new constitution and the confidence which its present administration has inspired at this place, are the real and efficient causes of the prosperous situation of the credit of the United States. This consideration is the more agreeable as it shows that it is dependent on themselves, and not merely on the management or credit of agents or other temporary and uncertain means which other powers are sometimes obliged to employ. It cannot

be denied, however, that the time and manner of bringing a loan on the market has much influence on the facility with which it is carried through, and that the present is a favorable moment for loans in general, and for those of the United States in particular.

I mentioned to you in my letter of Dec. 2, that the commissioners of the United States wished much to fix the loans at three, instead of two and a half millions of guilders. I was sensible of the propriety of their observations, which I have already communicated to you; but I declined acceding, without mentioning to them the only true reason, which was your instruction on that head. On the loan being carried off with so much rapidity, they have renewed their observations, and joined to them other reasons for extending it to three millions, which they have pressed on me repeatedly since, with a warmth which I did not expect. The principal reason, and that on which they seemed to dwell with most earnestness, is the necessity of keeping the undertakers well disposed; that in order to do this, it is found necessary to give them all a part in loans which are received favorably, that they may be disposed to take a part also, if at any time the moment should be less favorable; that not foreseeing the very great demand there could be for this loan, they had allowed the undertakers, as they presented themselves, to subscribe for as much as they chose, by which means there was no part left for those who came last. They add, that by extending it to three millions they could satisfy them, and that otherwise these people, at a future time, should the United States wish to make a loan, might, from ill humor or resentment, decline their aid. Whether this be the true cause or not of the tenacity with which the commissioners adhere to this desire, I cannot say. I am sensible, however, of the weight of the undertakers in loans, and of the propriety of not disobliging them; still I cannot apprehend much from their resentment in a case like this. It seems to me, on the contrary, that the loan being not pushed now as far as it might be, would rather render them more forward in the case of another being brought on the market. The commissioners however seem to be fully of a different opinion, and as it is an affair of mere locality, they must necessarily be better acquainted with

it than I am. They seem somewhat mortified that I should not therefore follow their advice respecting it. They gave me to understand that I might extend the loan, if I judged proper to make use of this favorable moment, to four millions, which is beyond the ordinary size of loans, and are much astonished at my not doing it. I have not informed them of the true cause of it, for a reason which seems to me sufficient—that it is not necessary.

I have lately received a letter from Mr. Gouv'r Morris, at Paris, in which he informs me that he is well persuaded a loan for about a million of dollars could have been made for the United States some months ago in a place not in Holland (he does not say what place), on the following terms: "The sum to have been at the order of the Secretary of the Treasury, at fixed terms, and the interest to commence from those terms at five per cent. For commissions, charges, and bonus, with the express undertaking for the money, about four per cent." He adds, that having understood from me that my powers were confined to Holland, he gave those who had applied to him information that nothing could be done for the present, viz. at the time of his speaking to me, which was a day or two before I left Paris. I did not suppose, from what he then said, that any proposals had been made to him, and I should not have thought it prudent to have risked an experiment any where without an absolute certainty of success, for a variety of reasons which will naturally present themselves to you. Under those circumstances I did not perhaps go into any explanations which could give Mr. Morris a true idea of the nature of my powers. This appeared to me the less necessary also, because having no intention of making more than one loan before I again heard from you, and not being able to entertain a doubt that that could be done more advantageously here than elsewhere, I did not see any means at that time of making an experiment elsewhere. Mr. Morris adds also in his letter, that he "will not pretend to say whether such a loan could be made at present, because a great part of the disposable cash is probably applied; but that if I wish to know, he will make inquiry; but would not wish to meddle in it, unless I think it could be

brought to something." I am so fully sensible of the advantages which would result from the United States being able to make loans, if they should choose it, in more than one place, that I have thought Mr. Morris's idea not to be neglected, and yet I see no means of making use of it at present. I have therefore answered him, that my wishes were that he would make such inquiries as would reduce that matter to as much certainty as possible, as nothing could justify an experiment, without the success being previously ascertained; that I had no reason to believe, at present, that I should wish to undertake such a loan before April or May; but that there was so great a presumption that a loan out of Holland would then or sooner be agreeable, that I thought myself authorized in asking him to make the inquiry; that as to the terms, I would say nothing at present, as they would of course be to be settled at the time of making the loan.

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### HAMILTON TO JEFFERSON.

March, 1791.

Mr. Hamilton presents his respectful compliments to the Secretary of State. He has perused, with as much care and attention as time has permitted, the draft of a letter in answer to that of Mr. Hammond, of March 5th.

Much *strong* ground has been taken, and *strongly* maintained, particularly in relation to

The *recommendatory* clauses of the treaty,

The previous infractions by Great Britain, as to *negroes* and posts,

The question of interest.

And many of the suggestions of the British minister, concerning particular acts and adjudications, as far as can be judged without consulting the documents, appear to be satisfactorily obviated.

But doubts arise in the following particulars:

1st. The expediency of the retaliation on the 1st, 2d, and 3d pages. Much of the propriety of what is said depends on the question of the original *right* or *wrong* of the war. Should it lead to observations on that point, it may involve an awkward and irritating discussion. Will it not be more dignified, as well as more discreet, to observe, concisely and generally, on the impropriety of having deduced imputations from transactions during the war, and (alluding in the *aggregate*, and without *specification*, to the instances of legislative warfare on the part of the British parliament, which might be recriminated) to say that this is forborne, as leading to an unprofitable and unconciliating discussion?

2d. The soundness of the doctrine (page 4), that all governmental acts of the *States* prior to the 11th of April are out of the discussion. Does not the term "*subjects*," to whom, according to Vatel, notice is necessary, apply merely to individuals? Are not *States* members of the federal league, the *parties contractantes*, "who are bound by the treaty itself, from the time of its conclusion; that is, in the present case, from the time the provisional treaty took effect, by the ratification of the preliminary articles between France and Britain?"

3d. The expediency of so full a justification of the proceedings of certain States with regard to debts. In this respect, *extenuation* rather than vindication would seem to be the desirable course. It is an obvious truth, and is so stated, that Congress alone has the right to pronounce a breach of the treaty, and to fix the measure of retaliation. Not having done it, the States which undertook the task for them, contravened both their federal duty and the treaty. Do not some of the acts of Congress import that the thing was viewed by that body in this light? Will it be well for the Executive now to implicate itself in too strong a defence of measures which have been regarded by a great proportion of the Union, and by a respectable part of the citizens of almost every State, as exceptionable in various lights? May not too earnest an apology for instalment and paper money laws, if made public hereafter, tend to prejudice, somewhat, the cause of good government, and perhaps to affect disadvantageously the character of the general government?

To steer between too much *concession* and too much justification in this particular, is a task both difficult and delicate; but it is worthy of the greatest circumspection to accomplish it.

4. The expediency of risking the implication of the *tacit approbation* of Congress of the "retaliations of four States" by saying that they neither *gave* nor *refused* their sanction to those retaliations. Will not the national character stand better if no ground to suspect the connivance of the national government is afforded? Is it not the fact that Congress were inactive spectators of the infractions which took place, because they had no effectual power to control them?

5. The truth of the position, which seems to be admitted (page 57), that the quality of *alien enemy* subsisted till the definitive treaty. Does not an *indefinite cessation* of hostilities, founded too on a preliminary treaty, put an end to the state of war, and consequently destroy the relation of alien enemy?

The state of war may or may not revive if points which remain to be adjusted by a definitive treaty are never adjusted by such a treaty; but it is conceived that a definitive treaty may never take place, and yet the *state* of *war* and all its consequences be completely terminated.

6. The expediency of grounding any argument on the supposition of either parties being in the *wrong* (as in page 65). The rule in construing treaties is to suppose both parties in the right, for want of a *common judge*, &c. And a departure from this rule in argument might possibly lead to unpleasant recrimination.

The foregoing are the principal points that have occurred on one perusal. They are submitted without reserve. Some lesser matters struck, which would involve too lengthy a commentary. Many of them merely respecting particular expressions. A mark + is in the margin of the places, which will probably suggest to the Secretary of State, on revision, the nature of the reflections which may have arisen. It is imagined that there is a small mistake in stating that Waddington paid no rent.

JEFFERSON TO HAMILTON.

March, 1791.

*First Objection.*—"The retaliatory clause is struck out, and only a general allusion to the instances of legislative warfare by the British Parliament is proposed."

*Second Objection.*—"As to matters of treaty, the State governments were mere subjects. Their action, like those of corporations in England, or like any other individuals, can only be governed by the promulgation; which, therefore, is the term for their conformity. They are the 'sujêts' of Vatel, and 'subditi' of Wolf in the passages before referred to."

*Third Objection.*—"It cannot be disputed that Great Britain has been guilty of the first infractions—that these infractions have been highly injurious to us. I am therefore of opinion that Great Britain cannot say we have done wrong in retarding, in the moderate degree we have done, execution of some parts of the treaty, as an equivalent to what she had previously refused to fulfil on her part; that she cannot found on that any claim of indemnification for debts lost by lapse of time; and that the justifiable rights of our country ought not to be given up by those whom they have appointed and trusted to defend them where they may be justly defended."

*Fourth Objection.*—"The passage here alluded to is in the recapitulation, § 3. It is struck out, and stands now—see letter."

*Fifth Objection.*—"I rather consider a preliminary treaty as establishing certain heads of agreement, and a truce till these and others can be definitively arranged; as suspending acts of hostility, and as not changing the legal character of *enemy* into that of *friend*. However, as this might be susceptible of a contradiction not worth our while to excite in this instance, I have struck out all affirmation of the position."

*Sixth Objection.*—"The word *wrong* in the passage here alluded to is struck out, and the word *act* substituted. We may say with truth that it was by their *act* we were hindered from

paying interest. While not qualifying it with the epithet of either *right* or *wrong* they are free to consider it as the former, while we do tacitly as the latter."

"Wherever the mark × has been found, and its object understood, the passage has been corrected. They seem principally to have been affixed to those passages susceptible of being softened in the manner of expression; in some instances they were not understood. The mistake in the case of Waddington and Rutgers is corrected."

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WASHINGTON TO HAMILTON.

MOUNT VERNON, April 4, 1791.

DEAR SIR:

Your letter of the 27th ultimo came duly to hand. For the information given in it, and for the notes which accompanied the same, I thank you.

Every expedient, as I believe you know, is tried to avert a war with the hostile tribes of Indians, and to keep those who are in treaty with us in good humor; but I am almost thoroughly convinced that neither will be effected, or, if effected, will be of short duration, whilst land-jobbing, and the disorderly conduct of our borderers, are suffered with impunity, and while the States individually are omitting no occasion to intermeddle in matters which belong to the general government.

It is not more than four or five months since the Six Nations, or part of them, through the medium of Colonel Pickering, were assured, that henceforward they would be spoken to by the government of the United States only; and the same thing was repeated in strong terms to Cornplanter, at Philadelphia, afterwards. Now, as appears by the extract from Mr. King, the legislature of New-York are going into some negotiations with these very people. What must this evince to them? Why, that we pursue no system, and that there is no reliance on any of our declarations.

To sum the whole up into a few words, the interference of States, and the speculations of individuals, will be the bane of all our public measures.

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WASHINGTON TO SECRETARIES OF STATE, TREASURY, AND WAR.

MOUNT VERNON, April 4, 1791.

GENTLEMEN:

As the public service may require that communications should be made to me during my absence from the seat of government, by the most direct conveyances; and as, in the event of any extraordinary occurrence, it will be necessary to know at what time I may be found at any particular place; I have to inform you, that, unless the progress of my journey to Savannah is retarded by unforeseen interruptions, it will be regulated, including days of halt, in the following manner:—I shall be on the 8th of April at Fredericksburg, the 16th at Halifax, the 18th at Tarborough, the 20th at Newbern, on the 24th at Wilmington, 29th at Georgetown, South Carolina; on the 2d of May at Charleston, halting there five days; on the 11th at Savannah, halting there two days. Thence, leaving the line of the mail, I shall proceed to Augusta; and according to the information which I may receive there my return by an upper road will be regulated.

The route of my return is at present uncertain, but, in all probability, it will be through Columbia, Camden, Charlotte, Salisbury, Salem, Guilford, Hillsborough, Harrisburg, Williamsburg, to Taylor's Ferry on the Roanoke, and thence to Fredericksburg by the nearest and best road.

After thus explaining to you, as far as I am able at present, the direction and probable progress of my journey, I have to express my wish, if any serious and important cases (of which the probability is but too strong) should arise during my absence, that the Secretaries of the departments of State, Treasury, and

War may hold consultations thereon, to determine whether they are of such a nature as to demand my personal attendance at the seat of government; and should they be so considered, I will return immediately from any place at which the information may reach me. Or, should they determine that measures relevant to the case may be legally and properly pursued without the immediate agency of the President, I will approve and ratify the measures which may be conformed to such determination.

Presuming that the Vice-President will have left the seat of government for Boston, I have not requested his opinion to be taken on the supposed emergency; should it be otherwise, I wish him also to be consulted.

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### HAMILTON TO WILLIAM DUER.

TREASURY DEPARTMENT, April 7, 1791.

SIR:

In consideration of the moderate terms of Mr. Fowler's contract with the public, and from a disposition to give all requisite aid to the contractor, in order that the public service may be effectually and certainly performed, I accede to the requests contained in your letter, as explained in conversation; that is to say, I will advance immediately to you, as agent of Mr. Fowler, thirty thousand dollars, and a further sum of twenty thousand dollars at the expiration of forty-five days from the date of this letter.

If, on the first of October next, there is a satisfactory evidence that the public service has called for supplies (which have been furnished) to an amount sufficient to entitle the contractor to an additional sum of thirty thousand dollars, they shall be paid, though he should not be then ready to comply with the forms of the treasury.

### HAMILTON TO WASHINGTON.*

April 10, 1791.

* * * * * It is to be lamented, that our system is such as still to leave the public peace of the Union at the mercy of each State government. This is not only the case as it regards direct interferences, but as it regards the inability of the national government, in many particulars, to take those direct measures for carrying into execution its views and engagements which exigences require. For example; a party comes from a county of Virginia into Pennsylvania, and wantonly murders some friendly Indians. The national government, instead of having power to apprehend the murderers and bring them to justice, is obliged to make a representation to that of Pennsylvania; that of Pennsylvania, again, is to make a representation to that of Virginia. And whether the murderers shall be brought to justice at all, must depend upon the particular policy and energy and good disposition of two State governments, and the efficacy of the provisions of their respective laws; and the security of other States, and the money of all, are at the discretion of one. These things require a remedy.

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### JEFFERSON TO HAMILTON.

April 10th, 1791.

Th. Jefferson has the honor to send to the Secretary of the Treasury a note, just received from Mr. Otto, with copies of a correspondence between certain bankers desirous of lending forty millions livres to the United States, the French minister, and Mr. Short. He will ask the Secretary of the Treasury's consideration of these papers, and that he will be so good as to return them to him, with the substance of the answer he would wish to have given

* The other parts of this letter are not to be found.

to Mr. Otto. It is probable, indeed, we shall soon receive the same correspondence from Mr. Short, with his observations on the offer made.

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HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, April 10th, 1791.

SIR:

I have the honor of your letter of the 4th instant, addressed to the Secretary of State, the Secretary of War, and myself; to which due obedience shall be paid on my part.

A letter from Mr. Short, dated at Amsterdam, the 2d of December, has just come to hand, giving me an account of his proceedings to that period, a copy of which will be forwarded by the Tuesday's post. He informs me, among other things, that he had concluded with the bankers of the United States to open a loan, in February, for two millions and a half of guilders, at five per cent. interest, and four per cent. charges, which is a half per cent. less than the last. The term of reimbursement, fifteen years, beginning at the end of ten, with liberty to the United States to reimburse at any time sooner.

You will recollect that, by particular instruction from you to me, no succeeding *loan* is to be opened until *that* preceding has been submitted to you, and received your approbation. As it is very desirable that no delay may attend the progress of the business, both as it regards payments to France and the domestic operations to which the loans may be applied, I have concluded to submit Mr. Short's letter, to-morrow, to the Vice-President and the heads of departments, that they may consider how far the case is within the purview of your letter, and whether it will not be expedient to authorize Mr. Short to proceed upon a further loan to the amount of three millions of guilders, which is the sum to which the money-lenders have been accustomed, and *that* recommended by our bankers as the most proper to constitute each loan.

I request, nevertheless, to receive your instruction as soon as possible, upon the subject. And I submit whether it will not be advisable to change the restriction above mentioned, so as to leave Mr. Short at liberty to open his loans, successively, for three millions of dollars each—no new one to commence till after the preceding one has been filled—but without waiting for a ratification from this country; provided the terms be not, in any case, less advantageous than those now announced. There is always danger of considerable delay in waiting for approbation from hence, before a new loan can be undertaken; and favorable *moments* may be lost; for there are periods more or less favorable.

I think there is no probability, for some time to come, that loans can be obtained on better terms. And I may add that, as far as I can judge, Mr. Short has conducted himself in the affair with judgment and discretion, and there will be safety in allowing him the latitude proposed. I believe, also, it will be advisable to apply the present loan in the same manner as the former; that is to say, one half, or perhaps 1,500,000 guilders, to the use of France, and the residue to the purchase of the debt here. On this point, also, I request your direction.

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### HAMILTON TO WASHINGTON.

PHILADELPHIA, April 11th, 1791.

SIR:

I have just received a letter from Mr. King, in these words: "Mr. Elliott, who it has been said was appointed, will not come to America, owing, say his friends here, to a disinclination on his part, which has arisen from the death of his eldest or only son. Mr. Seton yesterday read me an abstract of a letter from London, dated February 2d, and written, as he observed, by a man of information, which says: 'Mr. Frazer is appointed plenipotentiary to the United States of America, and will go out

as soon as it is ascertained here that a correspondent character is appointed in America.' Although Mr. Elliot might not have been altogether adequate to the appointment, yet he would not have been a bad choice. It is questionable whether we can say even as much as that for Mr. Frazer, who is probably the gentleman lately resident with the Hansetowns, and formerly consul at Algiers, and who is said to be a wrong-headed, impetuous man. Should this information be correct, the appointment is not only unpromising, but is also a pretty strong proof of the misguided opinions of the British administration concerning this country." Nothing except the foregoing letter occurs worth communication, more than is contained in my official dispatch herewith.

With the truest and most respectful attachment, &c.

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HAMILTON TO JEFFERSON.

TREASURY DEPARTMENT, April 12th, 1791.

SIR:

I have perused the papers communicated to you by the Chargé des Affaires of France.

The propositions to which they relate, as far as they are understood, appear to me inadmissible. The only advantage they offer to the United States is a prolongation of the time of reimbursement. The rate of interest is to remain the same, and the place of payment, according to the probable course of exchange, is to be altered for the worse from Paris to Amsterdam. A premium of five per cent. is also required, while the charges on the loans we make in Holland do not exceed four. There is, however, a proposition which is not understood: it is that the exchange on the sum to be paid at Paris and received at Amsterdam shall be regulated according to the *tariff* announced in the law of Congress. Now there is nothing in the laws of the United States to which I can apply the term tariff. It is possible, however,

that Mr. Short's letters, when received, may throw light on this point and some others, which may give a different complexion to the business.

But there are various collateral considerations in relation to the transfer of the debt due from the United States to France, affecting the credit and financial operations of this country, which will make it in almost any form a delicate operation.

It is desirable on every account to make expeditious payment to France, but this desire must be conciliated with that of invigorating and perfecting the system of public credit of the United States, and in adhering to this idea there is the additional inducement of a tolerable prospect of satisfying the claims of France in a manner perhaps as expeditious and probably more efficacious than would be incident to an acquiescence in the proposed plan.

I have the honor to be with great respect, &c.

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### HAMILTON TO WILLIAM SHORT, AMSTERDAM.

TREASURY DEPARTMENT, April 13th. 1791.

SIR:

I have recently received your letters of the 2d of December and the 25th of January. The others to which they refer have not yet come to hand.

The manner in which you have proceeded, as detailed in your letter of the 2d of December, is entirely satisfactory to me, and I doubt not will be equally so to the President, when known to him. He is now absent on a journey through the Southern States.

In consequence of the arrangement which has been made by the President relative to cases occurring in his absence, I am at liberty to authorize you as soon as the loan you announce is filled, to cause another to be opened for three millions of guilders, which I accordingly do.

One million and a half of the loan you have set on foot is destined as a payment to France, and you will please to take as early measures as possible to have the million remitted to Paris; the half million will wait for a further direction. I observe that the remittance of the million and a half of the last loan has been effected with considerable advantage to the United States. I presume that a similar advantage will for some time to come attend succeeding remittances.

Though your letters, detailing the nature of the offers for a transfer of the debt due to France, are not arrived, a communication through the Chargé des Affaires of France to the Secretary of State has given me the requisite information. There is, however, one proposition of Messieurs Schweizer, Jeanneret & Co., which I do not understand. It is the fourth, to this effect: "The difference of exchange upon the forty millions to be furnished at Paris, and upon the same sum to be received in contracts of the United States, shall be regulated according to the *tariff* announced in the law of Congress." What is meant by this tariff I am wholly at a loss to determine; there being nothing in the law of Congress to which I can apply the term.

This being the case, the propositions with the sole advantage of a prolonged period of reimbursement, would leave the debt at the same rate of interest, and involve the disadvantage of making it payable at Amsterdam instead of Paris, (subjecting the United States thereby to the loss arising from a less favorable course of exchange,) together with the further disadvantage of a premium of five per cent. instead of four.

In this view of the matter the propositions are inadmissible. Your letter, however, by explaining the one I have quoted, may possibly throw new light on the subject. But I do not despair that offers will be made better corresponding with the terms you are at liberty to accept.

The domestic debt of the United States has reached the following prices in our market:

Six per cent. funded stock, bearing interest from the 1st instant, 17*s.* per £, or 85 per cent., and much in demand.

Deferred six per cent. stock 9*s.* per £, or 45 per cent.

Three per cents. bearing interest from the 1st instant, 9*s.* per £, or 45 per cent., much in demand and rising.

I have the honor to be, &c.

P. S.—I omitted to make you my acknowledgments for the returns of exports from St. Petersburg, which I beg you now to accept. Such documents will always be most acceptable, and, whenever they can be obtained without trouble or expense, I would request your transmitting to me copies of such as you may be able to procure. I have at present to ask of you the favor of obtaining for me the best information in your power concerning the establishment of the mint in the United Netherlands; the different offices, compensations to the persons engaged in it, the standards, weights, values, &c. of the coins, and such other particulars as are ever communicated, will all be desirable.

The situation of our East India trade renders it an object to obtain an account of the state of that branch of commerce in foreign countries. If you could with convenience furnish me with any thing relative to that of the United Netherlands, it may be useful at the present moment. I am particularly drawn to inquire about the affairs of the Dutch East India Company, by the circumstance of their borrowing money, and at an high interest.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, April 14, 1791.

SIR:

I have the honor to send herewith a copy of my letter of the 10th inst., and of that from Mr. Short of the 2d of December, to which it refers; and also the copy of another letter from Mr. Short of the 25th of January.

The result of my submission to the Vice-President and the heads of departments has been, that they have unanimously ad-

vised me to instruct Mr. Short to proceed to open a second loan as soon as the first shall be filled, and to extend the sum from two and a half to three millions of guilders. I nevertheless request your direction concerning the alteration in his instructions generally, which is proposed in my letter.

Finding, on recurring to it, your instruction to me competent to the disposition of the sum borrowed, I have directed Mr. Short to apply one million and a half of the loan which was to commence in February, as a payment to France. The exchange between France and Holland afforded a benefit of more than ten per cent. to the United States on the last payment.

I thought it advisable to dispose of a principal part of the loan to this object, not only from the general considerations which operate in the case, but from a desire to counteract the success of some negotiations with the French court for the purchase of the debt due from us, which are not for the interests of the United States.

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HAMILTON TO JEFFERSON.

TREASURY DEPARTMENT, April 15, 1791.

SIR:

The letter you sent me from Mr. Short, and others which I have received since mine to you, confirm the views of the subject therein taken. This you will perceive, from the following passages extracted from one of them: "Since then (speaking of former overtures), another company has presented itself for the same object, with a scheme by which the United States are to make the *sacrifices* on which *they* count for their profits." "The object of this company is, as you will see, to pay livres tournois in their present depreciated state, and to receive from the United States florins at the usual exchange; by this means France would receive from them *as much as she is entitled to receive from us*, but we should be obliged to pay the company *much more than we are obliged to pay France.*" "Had I had powers compe-

tent to the purpose, I should not have thought myself justified to have opened such a negotiation, where there was *all loss* and *no prospect of advantage* to the United States." * * * * "I must also add, that the house which makes these propositions is *entirely unknown* here, and that France feared even their names at Paris, which proves that it must be an inconsiderable one." Consequently, the credit of the United States would be in imminent danger of suffering in their hands.

I have authorized Mr. Short to apply a million and a half of florins of the loan he has opened to the use of France, and shall press as large payments as may be practicable to her.

I take it for granted that the court of France will not attempt any operation with the debt without the consent of the United States. Any thing of this sort, considering the efforts which are making on our part to discharge the debt, would certainly be very exceptionable. Indeed I do not see how any valid disposition of the debt of a sovereign power can be made without its consent; but it would be disagreeable to have to use this argument. I trust it will never be rendered necessary.

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### WASHINGTON TO HAMILTON.

CHARLESTON, May 7, 1791.

SIR:

I have received your letters of the 11th and 14th of last month. Concluding, from Mr. Short's statement of his negotiation in Amsterdam, and from the opinions offered in your letter of the 11th, that the loan has been obtained on the best terms practicable, and that its application in the manner you propose will be the most advantageous to the United States, I do hereby signify my approbation of what has been already done, as communicated in your letters of the 11th and 14th of April. Assenting to the further progress of the loans, as recommended by you in

these letters, I request that instructions may be given for completing them agreeably thereto.

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HAMILTON TO WILLIAM SHORT.

TREASURY DEPARTMENT, PHILADELPHIA, May 9, 1791.

SIR:

Since mine to you of the 18th of April, I have received your several letters of the 18th and 30th of December, the 15th of January, the 7th, 17th, and 22d of February.

Thanking you for the copious information they contain, I assure you that the further development of the business has increased my satisfaction with the course you have pursued. The issue of the loan set on foot by you is too favorable to the credit of this country not to be particularly pleasing.

I was apprehensive that inconvenience might attend the restriction by which you are required to defer opening a new loan, till the preceding one has been communicated and approved. And I doubt not that the President will readily consent to remove it, on perceiving that it has occasioned embarrassment. He is expected to return to this place by the middle of June; though, as I have written to him on the subject, it is probable that I shall, before his return, receive orders to give you greater latitude.

My letter of the 18th of April will have enabled you to open a second loan, either in Holland, or in the place to which Mr. Morris alludes—if the supposed opportunity shall have been found real, and shall not have passed by. It certainly would be very desirable to be able to resort to more markets than one, and if one of those markets should happen to be England, it would not be the worse on that account. I think there is a train of good consequences involved in the idea of opening the purses of moneyed men in that country to the government of this. I suspect, nevertheless, that it would not be long tolerated.

My objections to the negotiation you announce for obtaining a transfer of the debt due to France, have been confirmed by your subsequent communications.

You are informed that a million and a half of the last loan is destined for France, and authorized immediately to apply a million. I am now to inform you that directions have been given to the Treasurer to draw for eight hundred thousand. Leaving funds for answering this sum, you are at liberty to complete the payment of the whole sum destined for France as speedily as you think fit.

When the President returns I shall take with him a definitive arrangement, and give you a general view of the disposition intended to be made.

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HAMILTON TO WILLIAM SHORT.

TREASURY DEPARTMENT, May 24th, 1791.

SIR:

The President of the United States has signified to me his pleasure that I should revoke that part of your instructions which confines you to opening loans for no greater sum, at a time, than one million of dollars, and which restrains you from opening a subsequent loan till the one preceding has received his approbation; and has also instructed me to *authorize* you to open each future loan for three millions of florins; and as soon as one loan shall be *filled* or *subscribed*, to open another, till the sum necessary for fulfilling the act entitled, "An act making provision for the reduction of the public debt, and for paying the arrears of interest, and instalments of principal, which shall have become due to France, to the end of the present year," shall have been completed; provided, however, that the terms be not less advantageous than those upon which the last loan has been effected.

With regard to the application of the moneys that shall arise

from the loans you may make, subsequent to that which has been already announced, it is to be as follows: Reserving in the hands of our bankers one million and a half of the next succeeding loan, and a million of the one immediately succeeding that, for completing the purpose of the Act above mentioned, the residue of each, and the whole of the future loans, are to be applied in payments to France, unless directions shall at any time be given to the contrary. The first money which shall be *paid in* upon the two loans, out of which reservations are to be made to the extent contemplated, are, nevertheless, to be applied towards the payments to France; which you will accordingly cause to be done.

You will doubtless continue to keep me punctually advised of your operations.

With very great consideration, and the most cordial esteem, &c.

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### WASHINGTON TO HAMILTON.

MOUNT VERNON, June 13th, 1791.

MY DEAR SIR:

I am arrived at this place, and just in time to acknowledge (in a hasty manner, by this day's post, the first opportunity that has offered of writing to Philadelphia since I left Savannah) the receipt of your private letter of the 17th of April, by Mr. Smith, who lodged it at Camden, through which it was known my route would be, on my return to the seat of government.

Mr. Woolcott may be informed that it is my intention to appoint him to the office of Comptroller. With respect to his successor as Auditor, I shall suspend my determination, if no manifest inconvenience will result from it, until my arrival in Philadelphia, which, however, is not likely to happen before the 5th or 6th of July, as, by appointment at the last meeting, I am to meet the commissioners under the residence act, on Monday, the 27th instant, at Georgetown, and may, for aught I know to

the contrary, be detained there several days; and I afterwards must move slowly, on account of the exhausted condition of my horses.

No letters from the northward or eastward of this, bearing date between the 15th and 30th of May, have come to my hands; and having abundant evidence, before I reached Charleston, of the slow movements of the mail through the three southernmost States, I did, before I left that place on the 9th of that month, direct that all letters which might be for and following me should be returned to Fredericksburg, as the first place at which I should touch the post-line upon my return. But these directions not arriving in Richmond in time, as I conjecture, the letters of that interval, agreeably to the superscriptions which I am informed were on them, were forwarded from that place to Taylor's Ferry, in expectation of meeting me there. To this circumstance, which was unknown to me, and to finding, from better information than I set out with, that it would be more convenient to cross James River higher up than at Taylor's, is to be ascribed my missing the communications which were made between the 15th and 30th of May, as mentioned before. These dispatches I may be long without, and perhaps never get; for there are no cross-posts in those parts, and the letters, which will have to pass through many hands, may find some who are not deficient in curiosity.

My return to this place is sooner than I expected, owing to the uninterruptedness of my journey by sickness, from bad weather, or accidents of any kind whatsoever. Having obtained, before I left Philadelphia, the most accurate accounts I could get there of the places and roads through and by which I was to perform my tour, and the distances between the former, I formed my line of march accordingly, fixing each day's journey and the day to halt; from neither of which have I departed in a single instance, except staying, from a particular circumstance, two days in Columbia, and none at Charlotte, instead of one at each, and crossing James River at Carter's Ferry in place of Taylor's, as was the original intention. But the improbability of performing a tour of seventeen hundred miles (I have already rode more)

with the same set of horses, without encountering any accident by which a deviation would be rendered unavoidable, appeared so great, that I allowed eight days for casualties, and six to refresh at this place when I should have returned to it. None of the former having happened, accounts for the fourteen days I shall remain here before the meeting with the commissioners; one of whom, Mr. Johnson, Chief Justice of the State of Maryland, and living at a considerable distance from Georgetown, having made his arrangements agreeably thereto, would not be able to meet me sooner.

I mention this matter, that, if there is any thing pressing in either of the departments, it may be known where I am.

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HAMILTON TO WASHINGTON.

PHILADELPHIA, June 19, 1791.

SIR:

I have been duly honored with your letter of the 13th inst., from Mount Vernon; and, according to your desire, have informed Mr. Wolcott of your intention to appoint him Comptroller. This appointment gives me particular pleasure, as I am confident it will be a *great* and *real* improvement in the state of the treasury department. There can no material inconvenience attend the postponing a decision concerning the future Auditor till your arrival in this city.

I am very happy to learn that the circumstances of your journey have been in all respects so favorable. It has certainly been a particularly fortunate one, and I doubt not it will have been of real utility.

There is nothing which can be said to be new here worth communicating, except generally that all my accounts from *Europe*, both private and official, concur in proving that the impressions now entertained of our government and its affairs (I may say) *throughout* that quarter of the globe are of a nature the most flattering and pleasing.

## HAMILTON TO JEFFERSON.

TREASURY DEPARTMENT, June 21, 1791.

SIR:

It has occurred to me that it would be productive of very useful information, if some officer of the United States, in each foreign country where there is one, were instructed to transmit occasionally a state of the coins of the country, specifying their respective standards, weights, and values; and, periodically, a state of the market prices of gold and silver in coin and bullion, and of the rates of foreign exchange; and of the rates of the different kinds of labor, as well that employed in manufactures and in tillage.

I would beg leave to request, if there appears to you no inconvenience in the thing, that an instruction may be sent for the above purpose, and that copies of the statements which shall from time to time be received in consequence of it may be furnished to the treasury.

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## HAMILTON TO WILLIAM SHORT.

TREASURY DEPARTMENT, June 25th, 1791.

SIR:

I received two days since your letter of the 11th of March last.

Mine to you of the 13th of April and of the 9th and 24th of May (of which copies are herewith sent), will have informed you of my opinion concerning the negotiation for the transfer of the debt due to France, will have removed the impediments to your progress in the business committed to you, and will have apprised you of my views generally.

You will readily imagine that it must have been in a great degree necessary to let the development of our prospects at home precede a definitive arrangement with regard to the disposition

of foreign resources; and you will, from this, account for your not having been earlier apprised of what was to be done.

It is not impossible that the return of the President to this place, which is expected to be on the 4th or 5th of next month, will give you still greater latitude than has yet been given.

I observe with some surprise the application which has been made by Mr. Grand. Surely the naming of a place in any contract for the payment of moneys, can have reference only to the contracting parties, and may at pleasure be changed by their joint consent.

Your suggestion as to the expediency of diffusing in Holland a knowledge of the affairs of the United States, is evidently well founded.

It would, however, be of some delicacy to select such things as might make a favorable impression from those which might have a contrary tendency, which cannot be well judged of but by a person on or near the spot. And unless there were an *American* character stationary in the scene itself, there would be little certainty of a disinterested or judicious selection.

With great consideration and esteem, &c.

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### HAMILTON TO WILLIAM SHORT.

TREASURY DEPARTMENT, June 30th, 1791.

SIR:

Since closing my letter herewith transmitted, yours of the 4th of March transmitting a copy of the contract for the last loan has been delivered to me.

A ratification of that contract by the President will be forwarded as speedily as possible after his return to the seat of government, which is expected to be in the first week of the next month.

There is in a late letter from Messrs. Willinks and Van Staphorst something like a hope expressed of a possibility ere long

to obtain money for the United States at a lower rate of interest than heretofore, if a competent discretion be allowed to watch and improve favorable moments. There is no disinclination here to your allowing those gentlemen such a discretion as you may judge requisite to the accomplishment of so valuable an end, within the limits of your own.

Lest any misapprehension should arise from the mode of expression in my letter of the 24th of May, you will please to understand that you are at liberty to set on foot a new loan, upon the amount of the first being *taken up* or *contracted* for. I observe that the word *subscribed* is used in different letters from Holland as synonymous with the *payment* of the money *contracted for*, or, as we should say here, *subscribed.*

With very great consideration and esteem, &c.

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SHORT TO HAMILTON.

PARIS, July 19, 1791.

* * * * * In answer to my letters with respect to a loan at 4½ per cent. interest and also a diminution of the charges in case of the interest being continued at 5 per cent., they continue to say that the reduced interest can be hoped for only from delaying the loan and augmenting the commission. And as to the loan on the same interest they persist in assuring that no diminution of the charges can take place; they say that the bonds will inevitably fall to par on such a loan being proposed, the rise to 101 having taken place only from its having been believed that no other 5 per cent. loans would be proposed, and that the bonds may be now had at 100½ in parcels; they add that it would be highly impolitic to risk the good will of the undertakers by reducing ½ per cent. on their commission as I proposed. I own I am not of the same opinion, and am persuaded, that if they pleased, they might carry through a loan at 3½ per cent. commission. I have not informed them of my intention to open soon a loan either

there or elsewhere, but only have given them to understand, which they know, however, full as well as I do, that Congress will soon have occasion for further loans: and so the matter stands with respect to them.

Mr. Morris is in correspondence with his friends at Antwerp, respecting a loan as mentioned to you in a former letter. He showed me a letter from them in which they say that they think a small sum might be raised at 4½ per cent. by allowing sufficient time, but that the commission must be 6 per cent. I have authorized Mr. Morris to propose to them a commission of 4 per cent., and to say that in that case I would contract with them. He is now waiting for their answer, though I have little hopes they will take so low a commission. As it would be highly advantageous, however, to make such a loan even as they offer, I may, perhaps, be tempted to accept it if nothing better can be done.

The bankers at Amsterdam have written to me, that they have no doubt that a loan opened there the middle of next month might be pushed to six millions of florins, at 5 per cent. The same interest would unquestionably procure loans also at Antwerp, and perhaps at Genoa. These resources being used, the French debt, as far as due, might be immediately paid, and large sums remitted to you for purchasing up the American funds, which, bearing an higher interest and selling considerably below par, present great advantages for the public credit. The benefit of such measures depending on a general combination of your plans, no steps of course can be taken towards it but by your orders. The view, however, in which this subject has long presented itself to me, makes me regret that such advantages should be lost or delayed. It is useless to mention to you the effect which our domestic funds being at par would have on the credit abroad.

I have never known the reason why the Senate threw out the bill for paying off the foreign officers; it would certainly have had an happy influence on our credit, and particularly here. Its not being done would thwart much any design of borrowing money in Paris to pay off the French debt, or at least would render the terms less advantageous.

I have thus made you acquainted, sir, with the present position of affairs, and shall take care to inform you of every step that is taken respecting them.

Various circumstances have prevented the directors of the mint here giving me as yet the information they promised. As soon as obtained it shall be forwarded to you.

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### HAMILTON TO SUPERVISORS OF BOSTON.

TREASURY DEPARTMENT, July 27, 1791.

GENTLEMEN:

A temporary absence from the seat of government has delayed an answer to your letter of the 14th inst.

It is an established rule at the treasury, not to disclose the amount of the stock which stands to the credit of any person on the public books to any but the proprietor himself, or his regular representative; and the reasons extend, of course, to the respective loan offices.

One of those reasons is, that as property in the public funds constitutes an usual and a considerable portion of mercantile capital, wherever public credit is well supported, the permitting an inspection into the stock account of individuals to others than the parties respectively interested, would have a tendency to lay open the affairs and operations of merchants more than is consistent with the spirit of trade. Indeed, not only merchants, but other classes of citizens, may often have very fair and valid reasons for being disinclined to such an inspection; and it may be even conceived, that it would not at all times be expedient to allow access to the secret emissaries of a foreign power to discover the quantum of interest which its own citizens might have in the funds of a nation.

In thus assigning some of the reasons which have given occasion to the rule that has been mentioned, I yield to a desire of satisfying the Board that it is not unsupported by considerations

of weight, and that a relaxation of it, in compliance with their request, could not with propriety be acceded to on my part.

At the same time, I feel myself called upon by the occasion to express an opinion, that every thing in the nature of a direct tax on property in the funds of the United States, is contrary to the true principles of public credit, and tends to disparage the value of the public stock. If any law of the State of Massachusetts, therefore, gives sanction to such a tax, it is presumed that it must have been passed without an advertence to this important idea; and it is not doubted that, in the execution of it, there will be all the care and moderation which the delicacy of the operation requires. It is desirable, on every account, that no occasion should be given to a discussion concerning the regularity of the proceeding.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, July 29, 1791.

The Secretary of the Treasury, having had the honor to lay before the President of the United States the correspondence of Mr. Short respecting the loans made, and to be made, pursuant to the several Acts of Congress for that purpose, begs leave to note particularly for his consideration two circumstances which appear in that correspondence.

First, that there are moments when large sums may be borrowed in Holland with more facility and advantage than small sums at other times.

Secondly, that there is some prospect of opening loans with success in other countries than the United Netherlands.

These circumstances appearing, the Secretary respectfully requests the consideration and instruction of the President of the United States, whether it may not be expedient to remove the present restrictions upon Mr. Short, so as to enable him to embrace favorable moments, and open at his discretion loans, at such times and places, and for such sums, as he may find advisable, within the limitations of the respective laws authorizing the loans.

### WASHINGTON TO HAMILTON.

UNITED STATES, July 29, 1791.

Upon a full consideration of the reasons offered by Mr. Short, in his correspondence with you, for removing the restrictions laid upon him by his present instructions, so far as relates to his not opening a loan for more than a certain sum, and not being allowed to open a new loan until the terms of the preceding one shall have been ratified here, I have thought it expedient, and for the interest of the United States, that these restrictions should be removed. And I do hereby authorize you to inform Mr. Short, that he may open at his discretion loans for the United States, at such times and places and for such sums as he may find advisable, within the limitations of the respective laws authorizing these loans.

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### HAMILTON TO WILLIAM SHORT.

TREASURY DEPARTMENT, August 1st, 1791.

SIR:

Since my last letter to you, yours of the 4th of May has come to hand.

Pursuant to instructions recently received from the President of the United States, I am at liberty to authorize you "to open, at your discretion, loans, at such times and places, and for such sums as you may find advisable, within the limitations of the respective laws authorizing the loans," and which have been transmitted to you. This, accordingly, I now do, subject only to the following qualification: That with regard to such parts of the principal of our foreign debt as will not fall due till after the year 1792, no loan is to be opened which will cost the United States, in interest and charges, more than four and a half per cent. on the sum actually received by them.

This restriction is founded on an expectation of being able, ere that period arrives, to borrow money within that limit.

You will now find yourself in condition to embrace any favorable opportunities which may present, in either of the countries which have been mentioned by you, or in any other whatsoever. I hinted to you, on a former occasion, that the market of London would not be an undesirable one; and I have some reason of late to suppose that it might not be found an impracticable one.

I observe what you say, in your letter of the 9th of April, concerning the probable terms on which loans might be procured at Genoa. I should question, exceedingly, the expediency of opening a loan there, or any where else, on terms less advantageous than they can be made in Holland. Nevertheless, it is not my intention to conclude you by this observation, if you judge that the future effect of the measure upon our loans in Holland may justify a temporary sacrifice. As to Genoa, particularly, it does not appear advisable to go *far*, unless on terms more advantageous than in Holland; because, for want of direct intercourse, remittances to pay the interest must be circuitous, and probably both inconvenient and comparatively disadvantageous.

In respect to France, the case is very different. Equal terms there would appear eligible, if not preferable. But there is room to expect, from the progress of things in that scene, even better terms. To guard the lenders against the consequences of depreciation, the stipulations to pay in specie may be as precise as possible. There can be no objection to making the bonds, which should be given for the sums lent, receivable in payment for lands, at the price or prices which *shall* be fixed by law, in other cases.

I send you, herewith, an official statement by the proper officer, certified under the seal of the treasury, of the product of the old duties for a period of one year, ending the 30th of September last. This, I presume, will be deemed sufficiently authentic. The productiveness of the new duties is, as yet, only partially ascertained; but there is every appearance that they

will fully answer expectation. The product at the port of Philadelphia, for a single quarter, including the months of April, May, and June, exceeds three hundred and thirty thousand dollars; which, if you compare with the product of an entire year of the former duties, as exhibited in the statement above mentioned, will give you an idea of the very considerable increase which has taken place. All this, too, is independent of an interior duty on ardent spirits, which, in its progress, must afford an important accession of revenue.

You intimate the propriety of a plurality of persons to execute a trust such as that now reposed in you. This, however, does not appear necessary; and it is confided that you will cheerfully execute it alone. Of your prudence and judgment all are satisfied.

With great consideration and esteem, &c.

*Postscript, Aug.* 2, 1791.—When I speak of equal terms in France, it ought to be understood in this sense: Provided they are such as to realize the existing benefit of exchange between Holland and France.

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### HAMILTON TO JEFFERSON.

August 26th, 1791.

Mr. Hamilton presents his respects to the Secretary of State, and transmits drafts of the powers to the commissioners and to Mr. Short, to possess the Secretary of State fully of the nature of the powers and course of the transactions in both cases.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, September 2d, 1791.

SIR:

Since my last to you, of the first of August, I have received your several letters of the 3d, 5th, 10th, and 19th of June.

Most of the points mentioned in those letters will find sufficient answers in my several communications of the 9th and 24th of May, June 25th and 30th, and the 1st of August; all of which having gone, by duplicates at least, and some by triplicates, I take it for granted have gotten or will get safe to hand.

Previous to saying any thing further, by way of answer, it is proper to inform you of a circumstance which has recently taken place here. Mr. Ternant, shortly after his arrival, made a representation against the payment of the moneys due to France in its depreciated paper or assignats. You will readily conclude that the answer to such a representation could only be, *that (it) was not the intention of the United States to take advantage of the circumstance of depreciation*, and that an equitable allowance would be made for that circumstance, in the final adjustment of the payments which shall have been made.

It therefore becomes important to distinguish *mere depreciation* from *rate of exchange*. To illustrate my meaning: I observe that you state in your letter of the 3d of June, the exchange between Amsterdam and Paris is upwards of twenty per cent. (say 20) in favor of the former. You also state the rate of the depreciation of assignats at Paris, or, in other words, the difference between equal sums in *specie* and *assignats*, at 10 per cent. Here, then, the rate of exchange, exclusive of depreciation, was 10 per cent. above par in favor of Amsterdam.

Two modes of adjusting this matter occur: one, to note at each period of payment the rate of exchange and the rate of depreciation, and to pay the money, if desired, in Holland, at a rate of exchange corresponding with the difference; the other, to sell bills on Amsterdam for *specie*, and pay the proceeds into the French treasury.

As it may hereafter be questioned whether the rate of depreciation can be distinguished from the rate of exchange, it will be well to endeavor to put this point out of doubt: if circumstances permit the sale of bills at Paris, *in specie*, at a rate of exchange which is *nearly a mean* between the nominal or declared rate of exchange and the actual rate of depreciation (which on the data

noticed above ought to be 10 per cent.), this would afford an incontestable criterion. For Paris being the stipulated place of payment, there could be no colorable claim upon us to make payments at Amsterdam, when we could make them in gold or silver at Paris at 10 or any other rate per cent. (which might correspond with the above mentioned mean) less.

The management of this point will require delicacy. It is probable that the French ministry will not choose to *mark formally* a rate of depreciation. And it is not wished to create any embarrassment on the point. It is hoped that you will be able so to conduct the thing as to conciliate a due regard to equity with the interest of the United States, and the scruples which the conjuncture may impose on the French ministry.

If the sale of bills for specie will afford the equitable line of demarcation, it would seem the simplest operation for the French administration to purchase your bills on our bankers at Amsterdam at the market *specie rate* of exchange; in case, as I understand to be the fact, they wish to remit to Holland.

I observe the expectation of our bankers of a reduction of the rate of interest on the loans of this country, and your reasons for doubting that their expectations will be realized. Those reasons have great weight. Yet the accounts from this quarter of the progressive rise of our stock, and the rapid filling of the national bank, must ere this have given a strong impulse to whatever causes might exist favorable to a reduction of interest. And without expecting sanguinely, I do not despair of the event having happened, or speedily happening.

An increased premium, though not desirable, ought not, as you intimate, to be an obstacle, if within limits that on calculation show that more is gained in the reduction of interest than lost in the increase of premium. And it is probable enough that an augmentation of benefit to the undertakers may induce them to exert efficaciously their influence with the money lenders to be content with a rate of interest which will considerably overbalance to the United States the additional compensation given to them. The observations in my first instructions, which have relation to this point, had an eye chiefly to the sacrifices which

in the loan of two millions of florins at 4 per cent. were made to a mere appearance of low interest; and which, if I remember right, in fact gave to the lenders about 7 per cent. A small additional premium, which would be an object to agents or undertakers, would be easily overbalanced by a slight diminution of the rate of interest.

The course marked out in my letter of the 24th of May will obviate in future any injurious delay in the employment of the sums borrowed, if, as I have no doubt will be the case, I am accurately advised of the time of commencing each loan and the prospects concerning it, in order that I may regulate the drafts for the parts which are intended to be applied here.

The probability of an extension of loans abroad for the purchase of public debt beyond the limit of two millions of dollars, depends on that of a fall of interest. When I inform you that I expect in future to be able to borrow in the United States at 5 per cent., you will perceive that it cannot long be their interest to borrow at 5 in Europe.

As you have now a latitude of discretion coextensive with the whole amount of our foreign debt, and indications of my opinions on various points, I forbear to multiply details which perhaps would only serve to perplex. I shall therefore content myself with barely adding, that in regard to places of payment for moneys borrowed, my speculations on the probable course of exchange, resulting from future relations of commerce, would lead me to prefer, on equal terms, first, Paris, and next, Amsterdam. Neither any of the Italian States, nor the Austrian Netherlands, nor London, appears to me equally eligible. But too much stress ought not to be laid on such a preference, the grounds of it being far from certain.

The affair of Shiveizer, Jeanneret & Co. is more and more out of the question. Mr. Ternant discountenances instead of promoting it. And the President has sanctioned the disapprobation of the measure.

The postscript to my letter of the 2d of August is to be construed with a reference to what is said in this letter concerning the adjustment of the payments to France.

I thank you for the different documents you have forwarded me; and assure you of the increasing consideration and esteem with which I have the honor to be, &c.

A ratification of the contract for the loan by the President has been sent to Messrs. Willinks & Van Staphorsts by a direct opportunity, which has been deemed safer than a circuitous one through you.

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### HAMILTON TO WASHINGTON.

PHILADELPHIA, Sept. 16, 1791.

SIR:

I have the honor to inclose the copy of a letter from Mr. Brown, of Kentucky, to Gen. Irvine, giving an account of some interesting particulars in the western country. Part of the letter, I have understood, has been forwarded to you, but not the whole. Gen. Irvine is of opinion that the waters will be still so far practicable as to permit the progress of the troops under Gen. Butler, by the expedient of dragging the boats in the shallowest places.

With perfect respect, &c.

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### TERNANT TO HAMILTON.

PHILADELPHIA, Sept. 21, 1791.

SIR:

The distressed and very alarming situation in which the French colony of Hispaniola is now reduced, by an insurrection of the negroes, which threatens the most fatal consequences, puts me under the necessity of causing large supplies of provisions to

be immediately forwarded to that island. The means I can command at present being insufficient for the purpose, I have to request you will enable me, if possible, to draw on your federal treasury, to an amount not exceeding forty thousand dollars, to be accounted for in any future reimbursement of the United States to France.

I hope the extreme urgency of the case, and the interest I am convinced you take in the welfare of my nation, will induce you to grant this request, which I am going to lay immediately before the President of the United States.

I have the honor to be, &c.

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HAMILTON TO WASHINGTON.

PHILADELPHIA, Sep. 22, 1791.

SIR:

I have received a letter from the Minister of France, of which the inclosed is a copy. Having full authority from you in relation to payments to France, and there being funds out of which that which will constitute the succor requested may with propriety be made; and being fully persuaded that in so urgent and calamitous a case, you will be pleased with a ready acquiescence in what is desired, I have not hesitated to answer the Minister that the sum he asks is at his command.

With the most perfect respect and truest attachment, &c.

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WASHINGTON TO HAMILTON.

MOUNT VERNON, Sept. 24, 1791.

SIR:

I have received your letter of the 22d instant, inclosing a copy of one from the French Minister. I have to inform you

that your proceedings with respect to the request of the Minister of France, meet my entire approbation.

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HAMILTON TO WILLIAM SHORT.

TREASURY DEPARTMENT, October 3, 1791.

SIR:

I acknowledge the receipt of your letters of the 26th and 27th of July.

The fall which you announce in the price of the effects of the United States was certainly artificial. The cause ere this will have been better ascertained to you. 'Tis open to various conjecture.

I have thought it advisable to drop a line to our bankers in Holland, (of which a copy is inclosed,) merely to *mark* my attention to the circumstance.

It will deserve to be further considered whether it be expedient to press any more the reduction of charges. Perhaps the principal effort ought hereafter to be towards a reduction of the rate of interest. But you, who best know the ground, can best judge.

I shall be anxious to know the issue of your experiment at Antwerp.

I have the honor to remain with great consideration and respect, &c.

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HAMILTON TO MESSRS. WILLINKS, VAN STAPHORSTS AND HUBBARD, AMSTERDAM.

TREASURY DEPARTMENT, October 8, 1791.

GENTLEMEN:

I have learnt with some surprise, through Mr. Short, that the price of the effects of the United States had undergone a sudden depression in the market of Amsterdam.

This is so different from the tenor of the hopes I had built upon those expressed by you, and so contrary to all the calculations I can form on the *natural course* of the thing, that I cannot but be curious for a particular development of its cause.

It will, therefore, be satisfactory to me to receive from you, as early as may be, a full explanation of the circumstances which shall appear to you to have occasioned so unexpected a turn of the thing.

With great consideration, I remain, &c.

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HAMILTON TO WASHINGTON.

PHILADELPHIA, Oct. 6, 1791.

SIR:

The packet has brought me a letter of the 2d of August from Mr. Church, which contains the following paragraph:

"I fear there is no disposition at present in our Ministers to treat properly with America. Lord Hawkesbury is lately admitted into the Cabinet, and his prejudices are strong against you, and the enthusiasm for maintaining the navigation act is such, that there is not a shadow of probability they will in any shape relax. I have heard nothing since my last of Mr. Hammond's appointment to America, but I believe he is certainly to be sent out."

With the most respectful attachment, &c.

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SHORT TO HAMILTON.

PARIS, Oct. 10, 1791.

SIR:

* * * * * Since the departure of Mr. Donald from London, his partner has continued the correspondence with me on the

subject of a loan there for the United States. The final result of his researches is less favorable, for the present moment, than Mr. Donald had given reason to hope. On more precise inquiry, he found that no house of solidity would undertake to guarantee a loan for any commission, and that no loan could be opened *publicly* for a foreign power. Still he was well convinced that the United States might *privately* obtain a loan in London, provided interest was at five per cent., and that it was not brought on until the next spring. As I did not understand precisely what was meant by the term *privately*, and of course could not judge whether the dignity of the United States would admit of their making use of that mode, I have written to ask an explanation of it as an indispensable preliminary, and have not yet received an answer. * * *

With respect to Antwerp, I have hitherto informed you how the business stood there. Since my last, I have, at Mr. Morris's request, authorized the opening a loan there, provided it can be effected at four and a-half per cent. interest and five per cent. commission. As he observed it would be necessary in that case for the United States not to open loans in Holland at an higher rate of interest, I have agreed that that shall not be done before the first of January next, provided three millions of florins can be procured at Antwerp at that rate, and at that time. I had no difficulty in taking this engagement, as it is consenting only to what the interest of the United States would dictate. No answer has as yet been received to this letter, written only a few days ago. I must own, however, that I am not very sanguine in the expectation of any thing being done there in consequence of it.

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### WASHINGTON TO HAMILTON.

MOUNT VERNON, Oct. 14, 1791.

DEAR SIR:

When I addressed a private letter to you a few days ago, I had no more idea that Monday, the 24th instant, was the

day appointed for the meeting of Congress, than I had of its being doomsday; until it was mentioned to me in a letter which I have just received from Mr. Lear, who was under the like mistake. It had got so fixed in my mind that the last Monday was the time, that I never consulted the law, or made inquiries about it; and meant to move leisurely on, in the course of next week, for Philadelphia; and for that purpose had directed Page to send off his stage-coach so as to be at Georgetown on Tuesday, the 18th. This discovery, however, will oblige me, as soon as the means are in my power, to accelerate my journey; and it induces me, at the same time, to urge you more earnestly to be prepared, against my arrival, with what my last requested.

How far, in addition to the several matters mentioned in that letter, would there be propriety, do you think, in suggesting the policy of encouraging the growth of cotton and hemp, in such parts of the United States as are adapted to the culture of them? The advantages, which would result to this country from the encouragement of these articles for home manufacture, I have no doubt of; but how far bounties on them come within the powers of the general government, or it might comport with the temper of the times to expend money for such purposes, is necessary to be considered. Without a bounty, I know of no means by which they can be effectually encouraged. The establishment of arsenals in convenient and proper places is, in my opinion, a measure of high national importance, meriting the serious attention of Congress; and is one of those measures which ought to be brought to their view.

Yesterday I received the resignation of John Spotswood Moore, surveyor of the port of West Point, in this State. I mention it now, that, if opportunities should be afforded, you may make the necessary inquiries into the fitness of a successor to him.

### WASHINGTON TO HAMILTON.

GEORGETOWN, Oct. 17, 1791.

MY DEAR SIR:

I am thus far on my way to Philadelphia, and if the disagreeableness of the weather (for it is now raining) does not prevent it, shall proceed to Bladensburg at least to-night; but, be my dispatch what it probably may, the mail which leaves this to-morrow will arrive in Philadelphia before me.

This being the case, and time pressing, I forward the inclosed suggestions of Mr. Jefferson and Mr. Madison, who are both at this place, and from whom I requested information of the several matters that had occurred to them proper for communication.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, November 1st, 1791.

SIR:

I have barely time, by this opportunity, to inform you, that I have directed the treasurer to draw for one million of florins, on account of the last loan of six millions, and towards the close of the present month shall direct him to draw for another million. I calculate that the whole amount of the loan will have been received before the second set of drafts are presented.

I remain, with great consideration and regard, &c.

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### SHORT TO HAMILTON.

PARIS, November 22d, 1791.

SIR:

* * * * * * * Since my last, I have received your two letters of September 2d and October 3d. As it is the intention of

the United States to make up the depreciation, I am glad to have been informed of it thus early. I communicated it to the commissaries of the treasury, who intended, as they told me, making objections to such payments in future. This astonished me the more, as it would be objecting to receive from a debtor what they pay, to a considerably greater amount, annually, to their creditors. It is well to have anticipated their reclamations, since the intention of the United States is such. I am persuaded the ministry would have been too prudent to have rendered public such reclamations, and should suppose it highly probable Ternant had acted of himself. The commissaries of the treasury were highly pleased with my communication. I desired they would fix some basis which should be equally just for both parties. It was agreed between us, that it would be to ascertain what would have been the rate of exchange between Paris and Amsterdam if gold and silver had continued to circulate in France. They said they would consider of this subject, but nothing has been as yet proposed. * * * * *

It gave me much pleasure to find, by your last letter, that you had noticed to the bankers at Amsterdam the momentary fall in our stock there. The reduction in the rate of interest will, of course, as it has hitherto been, be in future the object of our efforts, agreeably to your desire; and I am exceedingly happy to have been able to offer you such favorable hopes respecting it, being ever desirous to convince you of my zeal, and give you assurances of the sentiments with which I have the honor to be, &c.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, November 30th, 1791.

SIR:

Your letters of the 23d and 31st of August and 3d of September remain unacknowledged. Mine to you, of the 1st of August, 2d September, and 3d of October, will much abridge what is necessary to be said at this time.

The prices of the public debt here rendering it questionable whether it be any longer the interest of the United States to prosecute the idea of purchases with moneys borrowed at 5 per cent., and there being reasons of the moment against beginning the redemption of the six per cents., I have concluded to forbear drawing for the second million of guilders mentioned in my letter of the 1st instant. Except, therefore, one million of the last six which has been drawn for, the entire loan is to be applied to European purposes.

In directing this application, you will bear in mind that there will be payments to be made on account of the Dutch loans, for which the proper reservations are to be made.

In your letter of the 23d of August, you mention that "in June next, the first reimbursement is to take place on the loans made at Amsterdam," and the commissioners, in some of their letters, speak of the time of that reimbursement as approaching.

Hence I conclude that some mistake has arisen, as by the contracts in the treasury it appears that the first payment of principle of the first Dutch loan, namely, that of 5,000,000 of florins, contracted the 17th of June, 1782, is not to take place till the 1st of June, 1793.

It will be proper to have an explanation with the commissioners on this point, lest an error should have crept into the copies of the contract sent to the treasury; which, however, from the whole circumstance, appears scarcely possible.

All payments for interest or otherwise, which shall be necessary to be made upon the Dutch loans during the year 1792, are intended to be made out of the moneys borrowed abroad, which will leave in the treasury here the sums that ought to be remitted for interest, as a part of the two millions of dollars authorized to be borrowed by the act making provision for the reduction of the public debt.

After the year 1792, remittances for interest will go from hence. But it is probable that, for some time to come, we shall have to depend on loans abroad for the reimbursement of the instalments of principal which may be falling due.

I observe the idea that a *guarantee* would be necessary, in

the case of a loan made in England. This circumstance I was not apprised of. It appears to me inadmissible.

I also observe what has passed concerning the charges on the last loan. You will perceive from my letters above referred to, the light in which this subject of charges has presented itself to my view.

With the truest consideration and esteem, &c.

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HAMILTON TO THOMAS MIFFLIN, GOVERNOR OF PENNSYLVANIA.

TREASURY DEPARTMENT, Dec. 21, 1791.

SIR:

It appearing to me that the attention of the Legislature of Pennsylvania may be necessary to the removal of an inconvenience under which the subscribers of the debt of that State now lie, I do myself the honor to make the requisite communication to your excellency.

The 18th section of the Act making provision for the debt of the United States, suspends the payment of interest in respect to the debt of any State which shall have issued its own certificates in exchange for those of the United States, until it shall be satisfactorily made to appear that the certificates issued for that purpose by such State had been *re-exchanged* or *redeemed*, or until those which shall not have been exchanged or redeemed shall be surrendered to the United States.

It is understood that the measure contemplated in this section was adopted by the State of Pennsylvania; that is, that a sum of State certificates was issued in exchange for an equal sum of certificates of the federal debt, and that although a part of those State certificates has been redeemed, others to a considerable amount have not been re-exchanged or redeemed. It will conduce as well to the order of the finances as to the convenience of the public creditors, the payment of interest to whom must otherwise be suspended, if measures can be taken by the govern-

ment of Pennsylvania to make the balance unredeemed and unexchanged to appear, and if they should direct the surrender of the amount of such balance in certificates of federal debt in their old form. Should the surrender of them in that form be impracticable, from the circumstance of the subscription of federal debt, which was directed by the Legislature, an equal sum of six per cent. deferred, and three per cent. stock, in such proportion as the balance or deficiency would produce on subscription, may be paid in lieu of the certificates, in their old form. This will be at the election of the State, and can be effected by no circumstance but their own convenience, as there can be no pecuniary advantage or disadvantage in either mode.

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## HEADS OF TOPICS FOR WASHINGTON'S SPEECH OF DEC. 25, 1791.

By Hamilton.

I. Cross posts; especially to some of the important points in western part of the Union.

II. Recommendation to enable Executive to preserve peace with Indians, by making it their interest.

III. Something complimentary to the militia.

IV. Completion of subscriptions to Bank.

1. Consuls.
2. Estimate of lands.
3. Forty thousand applications.
4. Act of S. and N. Car. Prisons.
5. Ditto, State of New Hampshire. Light-house.
6. Schools.
7. Tour south. Observations.
8. Communication from Governor of Pennsylvania.
9. Amendments.
10. Insurrection in Hispaniola.
11. Appointments to vacancies.

Surplus of revenue to debts.

### HAMILTON TO JEFFERSON.

January 1, 1792.

Mr. Hamilton presents his compliments to Mr. Jefferson. Being engaged in making a comparative statement of the trade between the United States and France, and between the United States and Great Britain, and being desirous of rendering it as candid as possible, Mr. H. will be obliged to Mr. Jefferson to point out to him the instances in which the regulations of France have made discriminations in favor of the United States as compared with other foreign powers. Those of Great Britain appear by its statutes, which are in the hands of Mr. H., but he is not possessed of the general commercial regulations of France.

Mr. H. also wishes to be informed whether the arrêt of the 9th of May, 1789, mentioned by Mr. J. in the notes to this table, be the same with the ordinance of the Governor-General of St. Domingo, which is at the end of the collection of arrêts which Mr. J. was so obliging as to lend to Mr. H., which is of *that date*.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, Jan. 28, 1792.

SIR:

You will find herewith duplicate of my letter of the 30th of November last; since which I am without any of your favors.

It is with sincere pleasure I embrace the opportunity of congratulating you on your appointment to the Hague as minister resident. This will afford you a better opportunity of watching and appreciating the course of circumstances. You will consequently be obliged less to rely on others; and I trust, by seizing favorable moments, you will be able to reduce the rate of interest on such future loans as may be found necessary.

A bill has lately been drawn upon our commissioners, in

favor of Mr. Jefferson, for 95,947½ guilders, for the use of the foreign department.

I send you herewith copies of a Report of mine to the House of Representatives on the 23d instant, and of certain statements which accompanied the same, which will give you a view of the present state of revenue and expenditure.

Our frontier affairs, by occasioning an increase of the latter, will call for an increase of the former.

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HAMILTON TO SHORT.

TREASURY DEPARTMENT, Feb. 14, 1792.

SIR:

I have received your several favors of Sept. 23d, Oct. 10th, and Dec. 1st.

It appears to me probable that your movement towards Antwerp produced the appearance of a four per cent. loan, and I hope from it in the result good effects.

Inclosed you will find a copy of a letter, of the same date with this, to the commissioners in Holland. You will easily comprehend the motives which directed the turn of it.

As to the charges on the six millions loan, though you had a right to insist on the point which you made with the commissioners, and did right to insist upon it till there was a concession of the principle, yet it appears, upon the whole, to be more interesting to the United States to keep the commissioners in good humor, in order to a cheerful co-operation in the more important point of a reduction of interest, than to make so small a saving in charges. I have obtained the consent of the President of the United States to authorize you to allow on the whole of the loan of six millions the same charges as attended the preceding loan.

HAMILTON TO W. & J. WILLINK AND VAN STAPHORST & HUBBARD.

TREASURY DEPARTMENT, Feb. 14, 1792.

GENTLEMEN:

I am just honored with your several favors of Nov. 21st and 24th, and Dec. 2d.

I learn with regret the disappointment which has attended your endeavor to procure a loan for the United States at the reduced rate of four per cent. interest. Your success would doubtless have been as interesting to the credit of this country, as it would have been pleasing both to the President of the United States and myself.

But, as I rely on the mutual good disposition both of Mr. Short and yourselves, I shall confide that any circumstances which may have taken place, not exactly corresponding with your views of the public interest, will not interfere with a cordial co-operation in the prosecution of it hereafter; and as events will continue to second your efforts, I shall allow myself to hope that the expectation of reducing the rate of interest on American loans to four per cent. will ere long be realized, notwithstanding the momentary impediment which has happened.

The price of public funds here will satisfy you that it is ceasing to be the interest of the United States to borrow abroad at a higher rate of interest than four per cent.

If you are able to bring the matter to that standard, it will effectually obviate the possibility of any future recourse elsewhere, and will secure to all parties the important advantage of permanently concentrating the loans of the United States in one great money market, upon terms which will conciliate in a satisfactory degree all interests, public and private.

### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, March 1, 1792.

The Secretary of the Treasury has the honor to submit to the President of the United States the draft of a Report on the subject of the Act concerning distilled spirits. There are one or two blanks in the draft, to the filling of which some additional examination and inquiry are requisite. The suggestions, however, to which they relate are true as they stand, and the sense will be apparent. The Secretary sends the draft before they are filled to save time. He will wait upon the President on Monday for his commands respecting it.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, March 5th, 1792.

SIR:

Since my last of the 14th ultimo, I have the pleasure of your two letters of the 8th and 12th of November.

The reimbursement of the Spanish debt will be perfectly acceptable, but there will be matter for regret, if, before this reaches you, the sum claimed by the Farmers General has been paid to them.

There is certainly a million of livres in the pecuniary transactions between the United States and France, acknowledged as a subsidy, which remains unaccounted for, with some ground of conjecture that it is the same million which constitutes the claim of the Farmers General. This affair, though it has heretofore been moved, has never received any satisfactory solution. It is, however, proper in every view that such a solution should be had, and the documents are preparing on which to found a regular application, concerning it, to the French government. In the mean time the payment to the Farmers General, if not made, ought to be forborne.

I observe that you would have shortly reached the point when, by your instructions, you would cease to be at liberty to continue the reimbursements to France upon loans made at four and a half per cent. exclusive of charges. I shall be glad to find that the accomplishment of a loan at four per cent. has prevented that instruction proving an obstacle to further payments.

But if this should not have been the case, and if the rate of exchange shall have been so fixed with France as that it may prove an equivalent for the charges and the additional half per cent., you may proceed in borrowing, on the terms of the Antwerp loan, to an extent sufficient to discharge the entire debt to France.

The condition which is here made is deemed necessary to justify the executive in regard to the construction of the law and public opinion. And when it is considered that immense loss was sustained in *realizing here* the sums borrowed abroad during the war, in many instances to the extent of 40 per cent., it can not appear extraordinary that some attention is paid to conditions of advantageous reimbursement, especially of the part which is not yet due.

It must be proper to unite liberality towards France with an equitable regard to the interest of the United States.

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JEFFERSON TO HAMILTON.

March 5th, 1792.

Thomas Jefferson will be glad if the Secretary of the Treasury will state the specific propositions he would have made to Spain, on the subject of our fish, grain, and flour, to wit, what he would ask, and what propose as an equivalent. The following considerations will of course occur to him:

1. If we quit the ground of *the most favored nation*, as to certain articles for our convenience, Spain may insist on doing the same for other articles for her convenience, and I apprehend that

our commissioners might soon be out of their depth in the details of commerce.

2. If we grant favor to the wines, &c. of Spain, Portugal and France will demand the same, and may create the equivalent, the former by laying duties on our fish and grain, the latter by a prohibition of our whale oils; the removal of which will be proposed as the equivalent.

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### HAMILTON TO JEFFERSON.

March, 1792.

The general tenor of the Report appears solid and proper.

The following observations, however, on a hasty perusal occur.

*Page* 2. Is it to put our Revolution upon the *true* or the best footing, to say that the circumstances which obliged us to discontinue our foreign magistrate, *brought upon us the war?* Did not the war previously exist and bring on the *discontinuance?* Was it not rather the *cause* than the effect?*

Is it *accurate* to say that France aided us in capturing the *whole army* of the enemy? Does this not imply that there was no other enemy-army in the country; though there were in fact two others, one in New-York, another in South Carolina? This last is a mere criticism as to the accuracy of expression. The sense is clear enough.†

*Page* 11. Are "*naval victories*" the essential mean of conquest of a *water*, as seems to be implied? Is not the conquest of a *water* an incident to that of territory?‡ If this idea is not

* *These notes are in the hand of Jefferson.* "The Report is amended in conformity with this observation.

† "The capture of the army struck out.

‡ "No conquest of the territory was made, to wit, of the island of New-Orleans on the one side, or Louisiana on the other, as both had belonged to Spain before the war. Therefore no change in the right to the water as incident to the territory. This circumstance, however, is inserted in the Report to make the reasoning the clearer."

sound, that combined with it is,—namely, that in no event could Spain be considered as having *conquered the river against* the United States, with whom she not only had no war, but was an associate.

*Page* 12. May it not be inferred from what is said here, that though the United States would not *wish* to insert an express stipulation against other nations, yet they may be prevailed upon to do it? Would such a stipulation be consistent with the right which Great Britain reserved to herself in the treaty with us? If the influence alluded to is intended to be excluded, will it not be advisable to vary the turn of expression so as to render the intention more unequivocal?*

*Page* 23. Are there conclusive reasons to make it a *sine qua non* that no phrase shall be admitted which shall express or *imply* a grant? Could the negotiation with propriety be broken off on such a point?

Is it not rather one to be endeavored to be avoided, than the avoiding of it to be made a *sine qua non?*†

*Page* 25. Is it true that the United States have no right to *alienate an inch* of the territory in question, except in the case of necessity, intimated in another place? Or will it be useful to avow the denial of such a right? It is apprehended that the doctrine which restricts the alienation of territory to cases of *extreme necessity*, is applicable rather to *peopled* territory, than to waste and uninhabited districts. Positions restraining the right of the United States to accommodate to exigencies which may arise, ought ever to be advanced with great caution.‡

* The word *choose* substituted for *wish*, however England could hold that right of command in the water only as incident to Florida, which she then held. When she conveyed Florida to Spain, the incident passed by the same consequence, and she can never have a claim against us on a stipulation, the benefit of which she has conveyed to another.

† Report altered in conformity to this.

‡ The power to alienate the *unpeopled* territory of any State, is not among the enumerated powers given by the Constitution to the General Government, and if we may go out of that instrument, and *accommodate to exigencies which may arise*, by alienating the *unpeopled* territory of a State, we may accommodate ourselves a little more by alienating that which is *peopled*, and still a little more by selling the *people* themselves. A shade or two more in the degree of exigency is all that

*Page* 28. Is it true that the stipulation with France respecting the reception of prizes is *exclusive* and incommunicable? It is doubtless so as against France, but why is it so as against other nations?

It is however a stipulation very inconvenient and even dangerous to the United States, and one which ought by all means to be excluded.*

Though a treaty of commerce like that contemplated in the report ought not to be rejected, if *desired* by Spain, and coupled with a satisfactory adjustment of the *boundary* and *navigation;* yet ought not something more to be *attempted*, if it were only to give satisfaction to other parts of the Union? Some positively *favorable stipulations* respecting our grain, flour, and fish, even in the European dominions of Spain, would be of great consequence, and would justify reciprocal advantages to some of her commodities (say wines and brandies.)†

Will it not be necessary to add an instruction that the usual stipulation respecting the ratification of the treaty by the United States, be varied, so as to be adapted to the participation of the Senate?‡

*Last page.* The words "nor in *assenting* to their rights"—have a pencil line drawn through them.—'Tis certainly best to obliterate them.

The less commitment the better.§

will be requisite, and of that degree we shall ourselves be the judges. However, may it not be hoped that these questions are for ever laid to rest by the 12th amendment, now made a part of the Constitution, declaring expressly that the powers not delegated to the United States by the Constitution are reserved to the States respectively? And if the General Government has no power to alienate the territory of a State, it is too irresistible an argument to deny ourselves the use of it on the present occasion.

* It is certainly impossible for any nation to have stipulations of this kind and *extent* with two others at the same time. However, the language of the Report is made more correct and conformable to the words of the French treaty.

† If the Secretary of the Treasury will be so good as to particularize the advantages to be asked and the equivalents to be offered, it will be proper to consider of them.

‡ It seems sufficient to stipulate that the treaty shall be ratified without saying by what body or by what individuals it is to be. An instruction, however, is inserted to allow sixteen months for the exchange of ratifications.

§ This has been decided before.

HAMILTON TO WASHINGTON.

March 8th, 1792.

The Secretary of the Treasury has the honor to submit to the President a letter which he has drafted, in answer to one from the Minister Plenipotentiary of France, and which contains such ideas as have appeared to him compatible with the law, with the state of the treasury, and with a liberal attention to the conjuncture. He will wait on the President this evening for his orders, as Mr. Ternant appears urgent.

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HAMILTON TO WASHINGTON.

March 16th, 1792.

The Secretary of the Treasury has the honor to submit to the President the draft of a report on the subject of *ways and means* for carrying into execution the military bill.

He will wait on the President to-morrow morning, for his orders, as it is interesting there should be no unavoidable delay.

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HAMILTON TO SHORT.

TREASURY DEPARTMENT, March 21st, 1792.

SIR:

As the discharge of the arrears of interest, and instalments of principal, of the French debt, which are due, may have occasioned your power to borrow for that object to be suspended until you can obtain a loan at a rate of interest and charges sufficiently reduced, it is my wish that, as soon as it shall be proper after the receipt of this letter, you would proceed to

borrow the sum of three millions of florins, on the terms of the Antwerp loan, to be applied to the purposes mentioned in the act of the 12th of August, 1790, for the reduction of the public debt.

I shall wish for the earliest advices upon this subject, to enable me to direct the drafts; and I request your particular attention so to manage the operation, that no loss of interest, which can be avoided, may take place.

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HAMILTON TO SHORT.

TREASURY DEPARTMENT, April 2d, 1792.

SIR:

I am to acknowledge the receipt of your several letters of the 22d of November, 23d, 28th, and 30th of December.

The accomplishment, thus early, of a loan at four per cent. exceeds expectations. The intelligence of it was received with great satisfaction by the President, as well as by myself, and has given no small pleasure to the public at large.

You will perceive, by my letter of the 14th of February, the impression I entertained of the effect of your operation at Antwerp. The event is a confirmation of the good policy of opening to the United States more than one market.

I observe what you say with regard to the relative state of exchange and depreciation in France. I shall be glad to be informed that a rule for liquidating the payments by the United States has been adopted. It will be better to have it settled now, than to leave it to future discussion. Embarrassments may hereafter arise in fixing a rule, which may be as advantageous to the United States as a very moderate regard to their interest would render desirable. The moment of commencing payments, by anticipation, of sums not already due, has been, or will be, a very favorable one for a right adjustment of this point.

You desire my ideas concerning the comparative expediency

of making loans at Amsterdam or Antwerp on equal terms of interest and charges, in the event of a tax being laid by the States-General, as has been expected. This you will be better able to determine than myself, when I explain to you the ground of the preference before signified by me. It was founded on a supposition that the course of trade and money transactions will render remittances from this country to Amsterdam more easy and less disadvantageous than to Antwerp. Now, the general course of exchange between Amsterdam and Antwerp will decide whether it be more advantageous to pay the tax, than to remit *through* Amsterdam to Antwerp, which I presume, generally speaking, must be the case. If exchange be against Antwerp, in a degree sufficient to counterbalance the tax, the preference will be due to Amsterdam; if otherwise, to Antwerp.

The explanations you desire respecting the state of the debt due to France, shall be forwarded by the next opportunity, as shall be the contracts for the two last loans ratified by the President. An unusual press of business in the executive departments occasions, unavoidably, this delay.

It is impossible for me to agree to an alteration of the terms of the six million loan in the particular suggested. It would be a renunciation of an advantage really important in itself, and still more so in the public opinion of this country.

The readiness which appeared, in the first instance, to accede to the right of redeeming at pleasure, was more agreeable than expected. The change of views on this point is a natural result of the circumstances which have been experienced.

The terms of the last loan supersede the necessity of the latitude contemplated in mine of the 21st of March.

The Treasurer will draw upon our Commissioners in Holland for five hundred thousand florins, so as to arrive and be payable in June. I fear, under the instructions that have been given, to risk drafts for a greater sum; though I consider it as for the interest of the United States to prosecute the purchases of the public debt with moneys borrowed upon the terms of the last loan, and mean, as fast as I perceive it can be done with safety, to draw for a further sum of two millions and a half of florins to

complete the three millions intended by my last-mentioned letter. Your future letters will determine me whether to extend my drafts upon the loans already made, or to wait for a reservation by you out of some future loan.

P. S.—If the terms of the last loan can be rendered stationary, it will be of the happiest consequence. Perhaps it will conduce to this to let it be understood that the loans will be confined to Amsterdam, and probably extended for domestic operations, if things can be kept in the same position. Something like this has been hinted by me.

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### KNOX TO WASHINGTON.

WAR DEPARTMENT, April 8, 1792.

SIR:

Agreeably to your directions, as delivered to me this day by the Attorney-General, I have endeavored to take into consideration the expediency of your giving your approbation to the act entitled "An act for an apportionment of representatives among the several States according to the first enumeration," the constitutionality thereof being doubted by some persons.

I might plead my inability to give an opinion on so important and doubtful a point, as not possessing that previous information more peculiarly resulting from a study of the law, and from not having seen the merits of the question discussed in any of the debates of the House. It is, therefore, with the highest diffidence I venture on the subject.

The point upon which the question turns is, whether the numbers of representatives shall be apportioned on the aggregate number of all the people of the United States, or on the aggregate number of the people of each State, notwithstanding several large fractions may exist in each State unrepresented.

It has been said that either construction may be deemed to be within the letter as well as the spirit of the Constitution. If

this opinion should be just, which I freely confess I am not qualified of myself at this time to decide, it would result that the assent of the President of the United States is to be governed by the political equity of the measure.

In this view of the case, I find my mind less embarrassed with doubt; for, although some smaller fractions may be unrepresented, yet most of the larger ones are comprehended. In the bill, eight States, each having a fraction of upwards of twenty-five thousand, are provided with a representative; whereas, in the other seven States, no one of which would have more than twelve thousand eight hundred and sixty-six, and only one State that number, and the whole seven States but little more than fifty thousand federal numbers unrepresented, provided all idea of virtual representation should be rejected according to the principle of the bill itself. But, on the contrary, were the fractions of the eight States possessing the largest fractions not considered, upwards of two hundred thousand federal numbers would be unrepresented.

As, then, the Senate and House of Representatives have passed this law (by small majorities, indeed), and as the constitutionality is only doubted, not proved, but the equity of the measure apparent, it would appear rather a delicate measure for the President to decide the question contrary to the bill as passed.

If precedents are to be drawn from the conduct of the King of Great Britain in similar cases of doubtful laws, it would render the propriety of the President's disapprobation still more questionable.

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### JEFFERSON TO WASHINGTON.

April 4, 1792.

The Constitution has declared that "representatives and direct taxes shall be apportioned among the several States according to their respective numbers;" that "the number of represent-

atives shall not exceed one for every thirty thousand, but each State shall have, at least, one representative; and, until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts," &c.

The bill for apportioning representatives among the several States, without explaining any principle at all which may show its conformity with the Constitution, or guide future apportionments, says, that New Hampshire shall have three members, Massachusetts sixteen, &c. We are, therefore, to find by experiment what has been the principle of the bill; to do which, it is proper to state the federal or representable numbers of each State, and the members allotted to them by the bill. They are as follows:—

| | | | |
|---|---|---|---|
| Vermont, . . . | 85,532 | 3 | It happens that this representation, whether tried as between great and small States, or as between north and south, yields, in the present instance, a tolerably just result, and consequently could not be objected to on that ground, if it were obtained by the process prescribed in the Constitution; but, if obtained by any process out of that, it becomes inadmissible. |
| New Hampshire, . | 141,823 | 5 | |
| Massachusetts, . | 475,327 | 16 | |
| Rhode Island, . . | 68,444 | 2 | |
| Connecticut, . . | 235,941 | 8 | |
| New-York, . . . | 352,915 | 11 | |
| New-Jersey, . . | 179,556 | 6 | |
| Pennsylvania, . . | 432,880 | 14 | |
| Delaware, . . . | 55,538 | 2 | |
| Maryland, . . . | 278,513 | 9 | |
| Virginia, . . . | 630,558 | 21 | |
| Kentucky, . . . | 68,705 | 2 | |
| North Carolina, . | 353,521 | 11 | |
| South Carolina, . | 206,236 | 7 | |
| Georgia, . . . . | 70,843 | 2 | |
| | 3,636,312 | 120 | |

The first member of the clause of the Constitution above cited is express—that representatives shall be apportioned among the several States according to their *respective numbers;* that is to say, they shall be apportioned by some common ratio, for *proportion* and ratio are equivalent words; and it is the definition of *proportion among numbers*, that they have a *ratio common to all*, or, in other words, a *common divisor*. Now, trial will show that there is no *common ratio*, or *divisor*, which, applied to the numbers of each State, will give to them the number of representa-

tives allotted in this bill; for, trying the several ratios of 29, 30, 31, 32, 33, the allotments would be as follows:

| | 29 | 30 | 31 | 32 | 33 | The bill. |
|---|---|---|---|---|---|---|
| Vermont, . . . | 2 | 2 | 2 | 2 | 2 | 3 |
| New Hampshire, . | 4 | 4 | 4 | 4 | 4 | 5 |
| Massachusetts, . . | 16 | 15 | 15 | 14 | 14 | 16 |
| Rhode Island, . . | 2 | 2 | 2 | 2 | 2 | 2 |
| Connecticut, . . | 8 | 7 | 7 | 7 | 7 | 8 |
| New-York, . . . | 12 | 11 | 11 | 11 | 10 | 11 |
| New Jersey, . . | 6 | 5 | 5 | 5 | 5 | 6 |
| Pennsylvania, . . | 14 | 14 | 13 | 13 | 13 | 14 |
| Delaware, . . . | 1 | 1 | 1 | 1 | 1 | 2 |
| Maryland, . . . | 9 | 9 | 8 | 8 | 8 | 9 |
| Virginia, . . . . | 21 | 21 | 20 | 19 | 19 | 21 |
| Kentucky, . . . | 2 | 2 | 2 | 2 | 2 | 2 |
| North Carolina, . | 12 | 11 | 11 | 11 | 10 | 12 |
| South Carolina, . | 7 | 6 | 6 | 6 | 6 | 7 |
| Georgia, . . . . | 2 | 2 | 2 | 2 | 2 | 2 |
| | 118 | 112 | 109 | 107 | 105 | 120 |

Then the bill reverses the constitutional precept; because, by it, "representatives are *not* apportioned among the several States according to their respective numbers."

It will be said that, though for *taxes* there may always be found a divisor, which will apportion them among the States according to numbers exactly, without leaving any remainder; yet, for *representatives*, there can be no such common ratio, or divisor, which, applied to the several numbers, will divide them exactly, without a remainder or fraction. I answer, then, that *taxes* must be divided *exactly*, and *representatives* as *nearly* as the *nearest ratio* will admit, and the fractions must be neglected; because the Constitution wills, absolutely, that there be an *apportionment*, or *common ratio;* and if any fractions result from the operation, it has left them unprovided for. In fact, it could not but foresee that such fractions would result, and it meant to submit to them. It knew they would be in favor of one part of the Union at one time, and of another part of it at another, so as, in the end, to balance occasional inequalities. But, instead of such a *single* common ratio, or uniform divisor, as prescribed by the Constitution, the bill has applied *two ratios*, at least, to the different States, to wit, that of 30,026 to the seven following: Rhode Island, New-York, Pennsylvania, Maryland, Virginia, Kentucky,

and Georgia; and that of 27,770 to the eight others; namely, Vermont, New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, North Carolina, and South Carolina. As follows:

| | | Divided by 30,026. give | | And | | Divided by 27,770. give | |
|---|---|---|---|---|---|---|---|
| Rhode Island, . . | 68,444 | | 2 | Vermont, . . . | 85,532 | | 3 |
| New-York, . . . | 352,915 | | 11 | New Hampshire, . | 141,823 | | 5 |
| Pennsylvania, . . | 432,880 | | 14 | Massachusetts, . | 475,327 | | 16 |
| Maryland, . . . . | 278,513 | | 9 | Connecticut, . . . | 235,941 | | 8 |
| Virginia, . . . . | 630,558 | | 21 | New Jersey, . . | 179,556 | | 6 |
| Kentucky, . . . . | 68,705 | | 2 | Delaware, . . . | 55,538 | | 2 |
| Georgia, . . . . | 70,843 | | 2 | North Carolina, . | 353,521 | | 12 |
| | | | | South Carolina, . . | 206,236 | | 7 |

And if *two* ratios may be applied, then *fifteen* may, and the distribution become arbitrary, instead of being apportioned to numbers.

Another member of the clause of the Constitution which has been cited says, "the number of representatives shall not exceed one for every 30,000, but each State shall have, at least, one representative." This last phrase proves that it had in contemplation that all fractions, or *numbers below the common ratio*, were to be unrepresented; and it provides specially, that, in the case of a State whose whole number shall be below the common ratio, one representative shall be given to it. This is the single instance where it allows representation to any smaller number than the common ratio, and, by providing specially for it in this, shows it was understood that, without special provision, the smaller number would, in this case, be involved in the general principle.

The first phrase of the above citation, that "the number of representatives shall not exceed one for every 30,000," is violated by this bill, which has given to eight States a number exceeding one for every 30,000, to wit, one for every 27,770.

In answer to this, it is said, that this phrase may mean either the thirty thousands *in each State*, or the thirty thousands *in the whole Union;* and that, in the latter case, it serves only to find the amount of the whole representation, which, in the present

state of population, is one hundred and twenty members. Suppose the phrase might bear both meanings, which will common sense apply to it? Which did the universal understanding of our country apply to it? Which did the Senate and Representatives apply to it during the pendency of the first bill, and even till an advanced stage of this second bill, when an ingenious gentleman found out the doctrine of fractions—a doctrine so difficult and inobvious, as to be rejected, at first sight, by the very persons who afterwards became its most zealous advocates. The phrase stands in the midst of a number of others, every one of which relates to States in their separate capacity. Will not plain common sense, then, understand it, like the rest of its context, to relate to States in their separate capacities?

But if the phrase of one for 30,000, is only meant to give the aggregate of representatives, and not at all to influence their apportionment among the States, then the one hundred and twenty being once found, in order to apportion them, we must recur to the former rule, which does it *according to the numbers of the respective States;* and we must take the *nearest common divisor* as the ratio of distribution, that is to say, that divisor which, applied to every State, gives to them such numbers as, added together, come nearest to 120. This nearest common ratio will be found to be 28,858, and will distribute 119 of the 120 members, leaving only a single residuary one. It will be found, too, to place 96,648 fractional numbers in the eight northernmost States, and 105,582 in the seven southernmost. The following table shows it.

| | | Ratio of 28,858. | Fractions. | |
|---|---|---|---|---|
| Vermont, | 85,532 | 2 | 27,816 | |
| New Hampshire, | 141,823 | 4 | 26,391 | |
| Massachusetts, | 475,327 | 16 | 13,599 | |
| Rhode Island, | 68,444 | 2 | 10,728 | |
| Connecticut, | 235,941 | 8 | 5,077 | |
| New-York, | 352,915 | 12 | 6,619 | |
| New Jersey, | 179,556 | 6 | 6,408 | |
| Pennsylvania, | 432,880 | 15 | 10 | |
| | | | | 96,648 |
| Delaware, | 55,598 | 1 | 26,680 | |
| Maryland, | 278,513 | 9 | 18,791 | |
| Virginia, | 630,558 | 21 | 24,540 | |
| Kentucky, | 68,705 | 2 | 10,989 | |
| North Carolina, | 353,521 | 12 | 7,225 | |
| South Carolina, | 206,236 | 7 | 4,230 | |
| Georgia, | 70,843 | 2 | 13,127 | 105,582 |
| | 3,636,312 | 119 | 202,230 | 202,230 |

Whatever may have been the intention, the effect of rejecting the nearest divisor, (which leaves but one residuary member,) and adopting a distant one, (which leaves eight,) is merely to take a member from New-York and Pennsylvania each, and give them to Vermont and New Hampshire. But it will be said, "this is giving more than one for 30,000." True; but has it not been just said, that the one for 30,000 is prescribed only to fix the aggregate number, and that we are not to mind it when we come to apportion them among the States; that for this we must recur to the former rule, which distributes them according to the numbers in each State? Besides, does not the bill itself, apportion among seven of the States, by the ratio of 27,770, which is much more than one for 30,000?

Where a phrase is susceptible of two meanings, we ought certainly to adopt that which will bring upon us the fewest inconveniences. Let us weigh those resulting from both constructions.

From that giving to each State a member for every 30,000 in that State, results the single inconvenience that there may be

large fractions unrepresented. But it being a mere hazard on which States this will fall, hazard will equalize it in the long run.

From the other results exactly the same inconvenience. A thousand cases may be imagined to prove it. Take one: suppose eight of the States had 45,000 inhabitants each, and the other seven 44,999 each, that is to say, each one less than each of the others, the aggregate would be 674,993, and the number of representatives, at one for 30,000 of the aggregate, would be 22. Then, after giving one member to each State, distribute the seven residuary members among the seven highest fractions; and, though the difference of population be only an unit, the representation would be the double. Here a single inhabitant the more, would count as 30,000. Nor is this case imaginable only; it will resemble the real one, whenever the fractions happen to be pretty equal through the whole States. The numbers of our census happen, by accident, to give the fractions all very small or very great, so as to produce the strongest case of inequality that could possibly have occurred, and which may never occur again. The probability is, that the fractions will generally descend gradually from 39,999 to 1. The inconvenience, then, of large unrepresented fractions attends both constructions; and, while the most obvious construction is liable to no other, that of the bill incurs many and grievous ones.

| | | | Fractions. |
|---|---|---|---|
| 1st, | 45,000 | 2 | 15,000 |
| 2d, | 45,000 | 2 | 15,000 |
| 3d, | 45,000 | 2 | 15,000 |
| 4th, | 45,000 | 2 | 15,000 |
| 5th, | 45,000 | 2 | 15,000 |
| 6th, | 45,000 | 2 | 15,000 |
| 7th, | 45,000 | 2 | 15,000 |
| 8th, | 45,000 | 2 | 15,000 |
| 9th, | 44,999 | 1 | 14,999 |
| 10th, | 44,999 | 1 | 14,999 |
| 11th, | 44,999 | 1 | 14,999 |
| 12th, | 44,999 | 1 | 14,999 |
| 13th, | 44,999 | 1 | 14,999 |
| 14th, | 44,999 | 1 | 14,999 |
| 15th, | 44,999 | 1 | 14,999 |
| | 674,993 | | |

1. If you permit the large fraction in one State to choose a representative for one of the small fractions in another State, you take from the latter its election, which constitutes real representation, and substitute a virtual representation of the disfranchised fractions; and the tendency of the doctrine of virtual representation has been too well discussed and appreciated by reasoning and resistance, on a former great occasion, to need development now.

2. The bill does not say that it has given the residuary representatives *to the greatest fractions;* though, in fact, it has done so. It seems to have avoided establishing that into a rule, lest it might not suit on another occasion. Perhaps it may be found the next time more convenient to distribute them *among the smaller States;* at another time *among the larger States;* at other times according to any other crotchet which ingenuity may invent, and the combination of the day give strength to carry; or they may do it arbitrarily, by open bargain and cabal. In short, this construction introduces into Congress a scramble, or a vendue for the surplus members. It generates waste of time, hot-blood, and may, at some time, when the passions are high, ex-

tend a disagreement between the two Houses, to the perpetual loss of the thing, as happens now in Pennsylvania Assembly: whereas the other construction reduces the apportionment always to an arithmetical operation, about which no two men can possibly differ.

3. It leaves in full force the violation of the precept which declares that representatives shall be *apportioned* among the States according to their numbers, i. e. by some common ratio.

Viewing this bill either as a *violation of the Constitution*, or as giving an *inconvenient exposition to its words*, is it a case wherein the President ought to interpose his negative? I think it is.

1. The non-user of his negative begins already to excite a belief that no President will ever venture to use it; and, consequently, has begotten a desire to raise up barriers in the State legislatures against Congress throwing off the control of the Constitution.

2. It can never be used more pleasingly to the public than in the protection of the Constitution.

3. No invasions of the Constitution are so fundamentally dangerous as the tricks played on their own numbers, apportionment, and other circumstances respecting themselves, and affecting their legal qualifications to legislate for the Union.

4. The majorities by which this bill has been carried (to wit, of one in the Senate, and two in the House of Representatives), show how divided the opinions were there.

5. The whole of both Houses admit the Constitution will bear the other exposition; whereas the minorities in both deny it will bear that of the bill.

6. The application of any one ratio is intelligible to the people, and will, therefore, be approved; whereas the complex operations of this bill will never be comprehended by them; and, though they may acquiesce, they cannot approve what they do not understand.

### HAMILTON TO WASHINGTON.

PHILADELPHIA, April 4, 1792.

The Secretary of the Treasury presents his respects to the President of the United States. He was informed yesterday, by the Attorney-General, that his opinion concerning the constitutionality of the Representation Bill was desired this morning. He now sends it with his reasons, but more imperfectly stated than he could have wished, through want of time. He has never seen the bill, but from the accounts he has had of it, he takes it for granted that he cannot have misconceived its contents, so as to cause any material error in the process of his reasoning.

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### HAMILTON TO WASHINGTON.

PHILADELPHIA, April 4, 1792.

The President desires an opinion, whether the act entitled "An act for an apportionment of representatives among the several States according to the first enumeration," be constitutional, or not.

It is to be inferred, from the provisions of the act, that the following process has been pursued:

1. The aggregate numbers of the United States are divided by 30,000, which gives the total number of representatives, or 120.

2. This number is apportioned among the several States by the following rule: As the *aggregate* numbers of the *United States* are to the *total number* of representatives found as above, so are the *particular numbers of each State* to the number of representatives of such State. But,

3. As this second process leaves a residue of eight out of the 120 members unapportioned, these are distributed among those States which, upon that second process, have the largest fractions or remainders.

As a ratio of 30,000 appears to have been adopted as a guide, the question is, whether this ratio ought to have been applied, in the first instance, to the aggregate numbers of the United States, or to the particular numbers of each State?

I am of opinion that either of these courses might have been constitutionally pursued; or, in other words, that there is no criterion by which it can be pronounced decisively that the one or the other is the true construction. Cases so situated often arise on constitutions and laws.

The part of the Constitution in question is thus expressed: "*Representatives* and *direct taxes* shall be *apportioned* among the several States according to their *respective numbers.*"

'Tis plain that the same rule is to be pursued with regard to *direct taxes* as with regard to *representatives.*

What is the process which would naturally be followed in relation to the apportionment of direct taxes?

Clearly this—the *total sum* necessary would be first ascertained.

This total sum would then be *apportioned* among the several States by the following rule, viz.

As the *aggregate* numbers of the United States are to the *whole sum* required, so are the *particular numbers of a particular State* to the proportion of such State; which is, so far, the exact process that has been followed by the bill in the apportionment of representatives.

And hence results a strong argument for its constitutionality.

If there had been no ratio mentioned in the Constitution, 'tis evident that no other course could have been well pursued. No doubt, at least, of the propriety of that which has been pursued, could have been then entertained.

Does the mention of a ratio necessarily alter it?

The words of the Constitution, in respect to the ratio, are these:—"The number of representatives shall not exceed one for every 30,000, but each State shall have at least one representative."

This provision may naturally be read and understood thus: "The whole number of the representatives of the United States shall not exceed one to every 30,000 of the aggregate numbers

of the United States; but, if it should happen that the proportion of the numbers of any State to the aggregate numbers of the United States should not give to such State one representative, such State shall, nevertheless, have *one*. No State shall be without a representative."

There is nothing in the form of expression to confine the application of the ratio to the *several* numbers of the States. The mode of expression equally permits its application to their *joint or aggregate numbers*. The intent of inserting it is merely to determine a proportional limit, which the number of the House of Representatives shall not exceed. This is as well satisfied by resorting to the collective, as to the separate population of the respective States.

There is, therefore, nothing in the last recited clause to control or direct the sense of the first.

If it be said that the further process which apportions the residue among the States having the greatest remainders, is the circumstance that renders the bill unconstitutional, because it renders the representation not *strictly* according *to the respective numbers* of the States, it may be answered that this is but a necessary consequence of the first principle.

As there would commonly be left, by the first process, an unapportioned residue of the total number to be apportioned, it is of necessity that that residue should be distributed among the several States by some rule, and none more equal or defensible can be found than that of giving a preference to the greatest remainders.

If this makes the apportionment not mathematically "according to the *respective numbers* of the several States," so neither would the opposite principle of construction.

Fractions, more or less great, would, in this case also, and in a greater degree, prevent a conformity of the proportion of representatives to numbers. The same objection would lie, in this respect, against both principles of construction, against that in the bill at least.

Upon the whole, then, the bill *apportions* the representatives among the several States, *according to their respective numbers;*

so that the *number of representatives* does *not exceed* one for every 30,000 persons, *each State having at least one member.* It therefore performs every requisition of the Constitution; and it will not be denied that it performs this in the manner most consistent with *equality.*

There appears, therefore, no room to say that the bill is unconstitutional, though there may be another construction of which the Constitution is capable. In cases where two constructions may reasonably be adopted, and neither can be pronounced inconsistent with the public good, it seems proper that the legislative sense should prevail. The present appears to the Secretary clearly to be such a case.

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RANDOLPH TO WASHINGTON.

April 4, 1792.

The Attorney-General of the United States has the honor of reporting to the President of the United States, on the representation bill, as follows:—

The points which involve the question of constitutionality are three:

1. To ascertain the process by which the bill fixes the total number of representatives at 120;

2. To ascertain the process by which the bill distributes that number among the States; and

3. To try both of them by the standard of the Constitution.

The bill does not announce, in terms, the principle of proceeding, either in the establishment of the total number of 120, or its apportionment among the States. Some principle, however, it must have; otherwise, the omission would, of itself, be glaringly unconstitutional, as creating a precedent for leaving the number of the House of Representatives, and the distribution of that number, at the mere will of every different Congress. It must, therefore, be sought by calculation.

1. By calculation, then, it appears, that neither 30,000, the lowest constitutional limit, nor any higher number, if assumed as

the divisor of the federal numbers in each State, separately considered, will produce to each State such a number of representatives, as, when added together, shall amount to 120.

We then naturally turn to the aggregate federal number of the United States, to wit, 3,615,825; and the only divisor which can draw 120 members from that number, is 30,000.

This, too, is the only mode by which 120 members can be obtained by any act of arithmetic.

2. One hundred and twenty members are, in the next place, to be distributed.

Here, too, we are informed, by calculation, that no common divisor, applied to the federal number in each State, will allot so many members as the bill prescribes. Thirty thousand will fail with respect to eight out of fifteen States: a greater number, how little soever above 30,000, will at least be as far from that result; and every number beyond a certain point would be farther and farther still. The other seven States have the exact number of representatives which arises from a division of their federal numbers by 30,000. But as 30,000, taken as the divisor of the federal population in each State, give one hundred and twelve members; as the remainder of the 120 members is eight; and to each of the eight States having the highest fractions one member is added, it may be safely concluded that Congress distributed the 120 members in this form.

3. In trying this double process by the standard of the Constitution, we must first determine whether Congress were at liberty to fix the total number of representatives, by dividing the aggregate federal population of the United States, instead of the separate federal population of each State.

The following passages in the Constitution are material on this head:—

"Representatives and direct taxes shall be apportioned among the several States according to their respective numbers."

"The number of representatives shall not exceed one for every 30,000, but each State shall have at least one representative; and, until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three," &c.

Hence it is argued, that, as in laying direct taxes the sum must be resolved upon before *it* can be apportioned, so a number of representatives must be established before *they* can be apportioned; and this number can be procured only from the aggregate federal population.

It is not doubted that this number must be the effect of some rule; and, in fact, we find the Constitution declaring it to be "*according to their respective numbers*," that is, the numbers of each State.

Let it then be seen how direct taxes and representatives can be in *proportion* to numbers; for, "*proportion*" and "*apportion*" may be accepted, on this occasion, as synonymous. Direct taxes may be apportioned according to numbers by the rule of three, thus: as the whole population is to the sum required, so is a particular population of a State to the sum to be paid by that State. Through this means, every individual enters into the estimate, and not a cent is lost. But it is not so with representatives. For, with what propriety can it be stated with respect to representatives, in a manner analogous to direct taxes? Can it be said, as the whole federal population is to the whole number of representatives, so is the particular number of representatives to the particular federal population of each State? It cannot be so contended, for two reasons; first, because, when the inquiry itself is, what shall the whole number of representatives be, it is false reasoning to assume that number as actually known already; and, secondly, because, as representation is the deputation of one man to act for many, more than one must be combined in the account before a representative can exist. Of course, the Constitution looked for a ratio as to representation, whereas it computed individuals in taxes; that is, numbers shall govern in both cases, but they govern each subject according to its nature, so at least as not to beget an absurdity.

Could Congress increase the House of Representatives to 240 members? No. Why? Because they must not exceed one for thirty thousand. What thirty thousand? Of the *respective* numbers; namely, of each State. If aggregate or collective numbers had been contemplated, how much easier would it have been, and how much more proper, to have substituted other words

which were so obviously at hand? It seems to have been designed to make up the total number of representatives just as a stock in trade is created: each State is a contributor to it; and the contributors, added together, furnish the whole. In this way, the first House of Representatives is composed under the Constitution: New Hampshire is to have three, &c.

Why are States to have any representatives, as States, if the aggregate federal population is to decide the number? It ought rather to have been said in the Constitution that the boundaries of the States should not be an obstacle; but that the ratio should yield a member, wherever the numbers should be found to fill up that ratio. This never was intended. Are not the States distinct in their rights of election? Can the numbers of one county, even in the same State, assist another county in procuring a member? Is it not repugnant to the spirit of the Constitution to tack the numbers of one State to those of another, for the purpose of procuring a member? Is it not unexampled, that New-York should, with its numbers, contribute towards a member for New Jersey, when an elector of the former can have no fellow-interest or sympathy with the electors of the latter; and, without a freehold in the latter, would probably be debarred of a suffrage therein?

The fractions, it is true, are very large in many of the States; but such fractions are familiar in practice. In some States, representatives are according to a certain ratio of population; but the number above one integer, and not equal to another, has always been laid aside. In the management, too, of the National Bank, many shares between two numbers constituting a vote, are unrespected. If the fraction of one State can raise a member for another, it may often happen that the balance, which the States wish to preserve among themselves, may be destroyed unexpectedly by their own act. What would the sensations of South Carolina be, if her blacks should co-operate in giving a member to Connecticut?

It is remarkable that most of the advocates of the bill do themselves admit that the Constitution is susceptible of the construction above mentioned, as well as of their own.

The argument deduced from the amendment proposed to the Constitution on the subject of representation, might be shown to be inapplicable, even if it were admissible. But it is not admissible; because the amendment has not, as yet, become the sense of the United States. It is inapplicable. For although it has been observed, that, without recurring to the aggregate federal population, it might happen that three millions of persons would not give one hundred members; the answer is full as strong, to reply, that Congress would not be called upon to have one hundred members, unless one hundred times 30,000 should be contained in the separate federal populations of the several States. Indeed, the amendment proves nothing either way.

In short, it is wonderful that, after admitting the necessity of applying some ratio, and after perceiving that the application of that ratio to the aggregate federal population will produce such a number of representatives as cannot be distributed by any ratio whatever, the friends to the bill should not have abandoned it upon their own principles.

Here lies the radical objection, and the violation of the Constitution. If it be not here, the Attorney-General must, in candor, own that it is nowhere, in his opinion. For, if the 120 members can be established, the subdivision cannot be executed in any other, or in any fairer manner. The ratio of 30,000 is carried through the particular, as well as the aggregate federal population, as far as it can; and the remaining eight members are distributed equitably.

This is the best judgment, therefore, which the Attorney-General has been able to form without longer premeditation. Whether the reasoning on the opposite side ought to weigh against the interposition of a negative, it is not for him to decide.

EDM. RANDOLPH.

*Recapitulation by Jefferson.*

The opinion of the *Secretary of State* declares the bill unconstitutional; for it does not apportion the representatives among the States, *strictly*, according to their numbers.

It provides for fractions which the Constitution never intended.

It leaves the determination of apportioning the representatives without any fixed principle, which may hereafter be productive of great evil; and admits of caballing and bargaining on the subject.

The bill carried by a small majority—one in the Senate, and two in the House.

The whole of both Houses admit that the Constitution will bear either to have the bill in its present state, or to have one for 30,000 in each State, leaving the fractions. But the minorities will not admit the constitutionality of the present bill.

*The Secretary of the Treasury* has not seen the bill; but *presumes* that the process for forming the result in the bill has been in a certain way, which he mentions.

Thinks either the division of the aggregate number in the United States by 30,000, or the particular number in each State by that ratio, would be constitutional.

If a direct tax should be imposed, the only way of apportioning it among the several States would be that which has been pursued in the bill; and, therefore, it is consonant to the clause in the Constitution respecting representation and taxation.

That there would be a residue arising upon the whole, after dividing the numbers in each State by 30,000; and that it is but right that the States having the greatest fraction should receive the benefit resulting from dividing the *aggregate* number in the United States by 30,000.

The bill performs every requisite in the Constitution, in the manner most consistent with equality.

Although the bill cannot be said to be unconstitutional, yet there may be another construction of which the Constitution is capable. But where it may be taken in either sense, it is best to follow the legislative opinion.

*The Secretary of War.*

It has been said that the construction of the bill may be

deemed within the letter as well as the spirit of the Constitution. If that is the case, the assent of the President of the United States is to be governed by the political equity of the measure.

He approves the bill upon the principle of its giving a representation to the largest fractions.

The constitutionality of the bill being only doubted, not proved, it would appear a delicate measure for the President to decide against the sense of the legislature.

*The Attorney-General of the United States.*

The bill does not express the principle or rule by which the number of representatives is ascertained; it is, therefore, to be sought by calculation, which makes one to 30,000, taking the whole number in the United States. But it will be found, that, dividing the number in each State by 30,000, there will be found eight States that will have each a member less than they now have, if divided according to the numbers in the States respectively.

The Constitution looks for a *ratio* in representation. But it computed individuals as to taxes.

The bill destroys the distinction of States; for the ratio yields to numbers.

The advocates of the bill admit that the Constitution is susceptible of another construction, as well as of theirs.

Such a ratio is applied to the aggregate population of the United States as produces a number that cannot be distributed by any ratio whatever; and, in this, lays the unconstitutionality of the bill.

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## JEFFERSON TO HAMILTON.

April 10th, 1792.

If the President should enter into a provisional convention with the government of Algiers for a sum not exceeding forty

thousand dollars, will the Senate advise and consent to its ratification, the government of Algiers being made clearly to understand that we are not to be bound by the treaty until it shall be ratified?

If this sum appears too high, what lower limit would the Senate approve?

If the President should enter into a provisional treaty of peace with the government of Algiers at an expense not exceeding dollars to be paid on the ratification, and dollars payable annually afterwards, during its continuance, will the Senate advise and consent to the ratification, the government of Algiers being made clearly to understand that we are not to be bound by the treaty until it shall be ratified?

If these sums appear too high, what lower limit would the Senate approve?

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, April 10th, 1792.

SIR:

My last letter to you was of the 2d instant.

It is proper that you be informed that a sum of eight thousand three hundred and twenty-five dollars was paid here, on application of M. de Ternant, the Minister of France, to himself, and twenty-two thousand dollars to M. de la Forest, the Vice-Consul-General, on the 21st of February last, and the sum of one hundred thousand dollars on the 12th of March. Three further payments, of one hundred thousand dollars each, are engaged to be made here, in like manner, on the 1st of June, on the 1st of September, and on the 1st of December, next, or before, if convenient. All these are payments on account of the debt due to France.

P. S. An account against the government of France has been settled at the treasury, for arms, ammunition, &c., amount-

ing to eight thousand nine hundred and sixty-two dollars, of which a certified copy is here inclosed. This is also on account of the debt due to France.

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HAMILTON TO WASHINGTON.

April 12th, 1792.

The Secretary of the Treasury has the honor to communicate to the President a resolution of the trustees of the sinking fund, as of this morning. A particular piece of urgent business prevents him personally waiting upon the President with it. It is very much to be desired that the resolution may receive the immediate decision of the President. It is upon the same principles with the last.

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HAMILTON TO SHORT.

Treasury Department, April 16th, 1792.

Sir:

The fluctuation of the price of the stocks in the United States, is a circumstance that cannot have failed to attract your attention, nor to excite a temporary feeling in the minds of foreigners. Though I doubt not it will be well explained by the agents of those citizens of other countries who have vested their moneys in our funds, I think it necessary that some ideas should be communicated to you, on which you can found a true opinion, either for your own satisfaction or that of persons interested in our national welfare, with whom you may have occasion to confer.

The moderate size of the domestic debt of the United States appears to have created the most intemperate ideas of speculation in the minds of a very few persons, whose natural ardor

had been increased by great success in some of the early stages of the melioration of the market value of the stock. To combinations of private capitals thus acquired or increased, sums of specie, obtained as well at the most extravagant rates of premium as at common interest, were added, and to these were joined purchases of stock on credits, for various terms, so as to create a delusive confidence that the concentration of so much stock in a few hands would secure a very high market rate. This expectation was increased by comparing the market values of the several species of our funds with those of the same species of stock in Great Britain, the United Netherlands, and other parts of Europe, without due allowance for the deductions which should have been made on account of the great difference in the value of money, and the objections arising from our distance from those European money-holders whose capitals they expected to attract, and other relative circumstances. At the time when many heavy engagements thus formed were becoming due, some contentions among the dealers in, and proprietors of, the debt, took place, and counter-combinations were formed to render the crisis of payment and speculation as inconvenient and disadvantageous as possible. By these means those eventual contracts, it was probably hoped, could be more cheaply complied with; and, moreover, that a reduced market would afford further opportunities of beneficial speculation. The extreme indiscretion of the first mentioned speculations, and the distress which, it was manifest, they must produce, excited perhaps and animated the movements of the other party, and brought on a scene of private distress for money, both artificial and real, which probably has not been equalled in this country. It happened in the winter season, when the influx of cash articles of trade, as returns from abroad, is nearly suspended, and when quantities of specie were sent from the sea-ports to the interior country, for the purchase of produce to supply the demand for the spring exportation.

The banks, who can always perceive the approach of these things, were influenced to limit their operations, and particularly the Bank of the United States, which was then preparing for the

opening of its branches, or offices of discount and deposit, in Boston, New-York, Baltimore, and Charleston.

The United States, you would presume, could not be insensible of so fit a moment to make purchases of the public stock, and the Treasurer was accordingly authorized to buy; but, though the appearances of private distress for money were so great, he could not obtain for several days the sum of fifty thousand dollars, at the highest rates at which the public purchases had before been made. The holders who were free from engagements were averse to selling; the principal persons who were under engagements they could not comply with, were obliged or disposed to place their effects in the hands of their creditors, who did not choose to add to their own disappointments of great profits actual losses by unseasonable sales of the bankrupts' property. The stock in the market, therefore, was really made scarce. A quarter's interest has just been paid. Some of the cautious moneyed people have begun to purchase. The specie is returning from the country, and the heaviest private engagements having now fallen due, the declension of stock may be considered as arrested. There is little doubt that the difficulty for money among the dealers in the debt will be at no time so great as it has been, after the present week, and that changes of a favorable complexion are to be confidently expected; at first moderate, perhaps, afterwards such as will carry the funds up to their due value.

Should you be of opinion that the state of things in France will render some intimation of these events useful there, you will be good enough to communicate them to Mr. Morris, our minister at that court.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, May 7, 1792.

SIR:

The President having ratified the three last loans, namely, one for six millions of florins, at five per cent. interest; one of

three millions, at four per cent.; and that which has been negotiated at Antwerp; I herewith transmit you the instrument of ratification concerning the latter. The two former I have thought best to inclose directly to the commissioners in Amsterdam, under an impression that this at the time of its arrival may possibly not find you at the Hague.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, May 9, 1792.

SIR:

I have the honor to send herewith an adjustment at the treasury concerning the quantity of acres in warrants for army bounty rights, which ought to be deemed an equivalent for the 214,285 acres of land mentioned in the second enacting clause of the act entitled "An act authorizing the grant and conveyance of certain lands to the Ohio Company of Associates;" and a certificate of the delivery of the requisite quantity of warrants in conformity to that adjustment.

It is with regret I find myself required by law to discharge an official duty in a case in which I happen to be interested as a party, and which is capable of being regulated by different constructions.

Thus circumstanced, I have conceived it proper to repose myself on the judgment of others, and having referred the matter to the accounting officers of the treasury, with the opinion of the Attorney-General, which was previously obtained, I have governed myself by the determination of those officers.

I submit it, nevertheless, to the President, whether it will not be advisable to require as a condition to the issuing of the grant, that the parties give bond to pay any deficiency which there may be in the quantity of warrants delivered, if the legislature, at the ensuing session, shall decide that the construction which has been adopted is not the true one, or to surrender the letters patent for the tract in question.

## HAMILTON TO SHORT.

TREASURY DEPARTMENT, June 14, 1792.

SIR:

Your two letters of the 26th of January and 24th of March have come to hand since mine to you of the 7th of May.

For an answer to the first, I believe I need do nothing more than refer you to former communications. On the latter some observations arise.

You will consider any suggestions which you may find in my letters concerning a rule for adjusting the value of the payments to France rather as hints than instructions. I must, however, repeat my wish that the point may be now settled. If left for future liquidation, and brought to the seat of our government, considerations may be pressed, which may embarrass a proper adjustment of the matter, though foreign to those which ought really to govern in such a case. There can be no juncture more favorable than the present for placing the affair upon an eligible footing.

The management of this matter, as well as of every other which may concern the reimbursement to France, remains with you. If, in compliance with official usages, Mr. Morris's instrumentality should be requisite, he will be instructed to co-operate.

I shall learn with pleasure that the operation which you were meditating with Boyed and Keir has been carried into execution.

That which you state as the only objection to it would not, under existing circumstances, be of much weight. The pecuniary ability, too, of the parties and their connections, would be a material security against some of the principal inconveniences, which were to be apprehended from the accumulation in question. And, by creating *another* moneyed combination interested in the funds of the country, it may even, in some respects, tend to render its credit less dependent on the speculations and resources of a small number of individuals.

It will, however, be a very valuable ingredient in the arrangement, if it shall embrace an adjustment of the indemnification to

France for the depreciation of the assignats. You will perceive that I am solicitous this point should, in no event, remain undetermined.

Your anxiety on the subject, which closes your letter, is natural, but not necessary. The situation you have been in is properly appreciated; and that of your successor will be so likewise. You need not apprehend misconstruction either on the part of the government or of the community.

Accept my thanks for the continuance of your attention to the course of the Baltic navigation, and believe me always to be, with sentiments of real consideration and esteem, &c.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, June 19th, 1792.

The Secretary of the Treasury has the honor to submit to the President of the United States a provisional contract entered into between the superintendent of the Delaware light-house and Abraham Hargis, for sinking a well for the accommodation of that light-house, together with a Report of the Commissioner of the Revenue, on the subject, and some explanatory statements.

The Secretary has delayed this communication, under an impression that the allowance was excessive, and with a hope that something better might be done; but reputable workmen who have been consulted, appear to be of opinion that the charge is not unreasonable, and no other person has been found disposed to undertake at a lower rate. More from the latter circumstance, than from a conviction that the terms are not less moderate than they ought to be, the contract is now submitted. The approbation of it may be qualified by a reservation, that if all the material mentioned in the estimate B, are not used on the work, a proportional deduction shall be made from the sum stipulated. This, it is represented, will be agreed to by Mr. Hargis.

## HAMILTON TO SHORT.

TREASURY DEPARTMENT, June 23d, 1792.

SIR:

After closing my letter to you of the 14th instant, the Comptroller, to whom I had submitted for examination the statement of the French treasury transmitted by you, made some communications to me on that subject, of which copies are here inclosed for your information.

My own observations upon it must necessarily be reserved for another opportunity, as Mr. Pinkney, who will take charge of my letters, is to embark for London to-day.

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## WOLCOTT TO HAMILTON.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, June 22d, 1792.

SIR:

I have the honor to inclose for your inspection a statement of the loans received by the United States from the government of France, with a calculation of the interest due thereon to the first day of January, 1792. In this statement no notice is taken of the advances made at the treasury of the United States, or of the remittances by the Dutch Commissioners on account of said loans.

In the account transmitted by Mr. Short, I observe that the following charges are made, for advances to the United States, which, it is said, the French government has assumed to discharge:

| | £. | s. | d. |
|---|---|---|---|
| By the Directors of the Powder Magazines, | 196,481 | 15 | 3 |
| " " Department of War, - - | 1,052,345 | 11 | 6 |
| " " Administration for clothing the Troops, - - - | 134,065 | 7 | 6 |
| " " Farmers General, - - - | 846,770 | 14 | 5 |
| And for interest on the above mentioned sums, from Sept. 3, 1783, to Dec. 31, 1791, at five per cent., - - | 928,095 | 0 | 0 |
| Amounting to, Livres | 3,157,758 | 00 | 0 |

On these charges I think it proper to observe, that the government of France retained the sum of five millions of livres out of the loan of ten millions, to pay for certain articles of clothing and military stores which were ordered by Col. Laurens for the use of the United States. It will appear from the inclosed account, which has been extracted from the books of Thomas Barclay, Commissioner of Foreign Accounts, that the French government has already received credit for the two first mentioned sums, and that the third is a balance appearing due to the French government, on account of the excess of the supplies received above the five millions which were retained out of the loan.

To the claim for this balance of £134,065, the United States have, however, a just right to oppose a much more considerable demand, which remains to be liquidated between the two governments, for supplies furnished to the marine of France, under the agency of John Holker, Esq., late Consul-General.

It is much to be desired that some arrangement for effecting a settlement should be soon concerted; and, from the nature of the claim, and the evidence by which it is to be supported, it is my opinion that it ought to be adjusted in this country.

I had the honor to transmit to you, on the 29th of March, sundry documents relating to the claim of the Farmers General; as the balance of their account now appears to have been assumed by the French government, it appears to be necessary to

ascertain whether the loan of the Farmers General was not comprehended as a part of the aids granted before the treaty of February, 1778; and, if not so comprehended, to demand a disclosure of the person to whom one million of livres, which has not been brought to the credit of the United States, was paid.

I have the honor to be, with the greatest respect, &c.

N. B. It is supposed that the claim for supplies furnished to the marine of France, may amount to about two hundred thousand dollars.

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## HAMILTON TO SHORT.

TREASURY DEPARTMENT, June 30th, 1792.

SIR:

I have before me your letter of the 22d of April last.

As I doubt not the details of the projected arrangement will have sufficient latitude, as to time, to avoid embarrassment to the treasury, it cannot but be satisfactory.

A bill has been drawn in favor of the Secretary of State, on our Commissioners, for one hundred and twenty-three thousand seven hundred and fifty guilders, which, together with the five hundred thousand, of which you were advised by my letter of the 2d of April last, will constitute part of the fund which may be reserved for the arrangement in question. I shall forbear any further drafts till I am advised of its completion.

You will no doubt take care to retain a competent sum for the payment of the interest which shall be payable during the present year on the Dutch and Antwerp loans.

### HAMILTON TO WASHINGTON.

PHILADELPHIA, July 22d, 1792.

SIR:

I wrote to you on Monday last, transmitting a resolution of the Commissioners of the Sinking Fund. Nothing in the way of public business requiring your attention has since occurred.

There is a matter I beg leave to mention to you confidentially, in which your interposition, if you deem it advisable, may have a good effect.

I have long had it at heart that some good system of regulations for the forwarding supplies to the army, issuing them there and accounting for them to the department of war, should be established. On conversing with the Secretary at War, I do not find that any such now exists: nor have the intimations I have taken the liberty to give on the subject, though perfectly well received, hitherto produced the desired effect. The utility of the thing does not seem to be as strongly impressed on the mind of the Secretary at War as it is on mine.

It has occurred to me that if you should think fit to call by letter upon the Secretary of the Treasury and the Secretary at War to report to you the *system and regulations under which the procuring, issuing and accounting for supplies to the army is conducted*, it would produce what appears to be now wanting. I submit the idea accordingly.

With the most perfect respect and truest attachment, &c.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, July 25th, 1792.

SIR:

Your letters of the 25th of April and 14th of May have duly reached me; since the receipt of that of the 22d of April, which was acknowledged in mine of the 30th of June.

In consequence of your letter of the 14th of May, I have

directed drafts on the Commissioners for five hundred thousand guilders, and, as soon as these are sold, I shall cause further drafts to be made to the extent of five hundred thousand guilders in addition to the above mentioned five hundred thousand. The residue of the moneys heretofore announced to have been borrowed, will be left subject to your disposition towards payment of interest on the Dutch and Antwerp loans, during the present year, and of the debt due to France, with the surplus.

In speaking of the interest on the Dutch and Antwerp loans, I wish to be understood that I rely for the payment of this interest during the present year on the funds which are or shall be in the hands of the Commissioners, arising from loans that have been or may be made. Whether you will leave unemployed in their hands moneys equivalent to the interest for the entire year, or will rely upon a further loan to be made, applying a greater proportion of the moneys already obtained in payment to France, ought to be regulated upon the degree of certainty of effecting such further loan on admissible terms. This, therefore, is left to your discretion.

The statements A and B herewith transmitted will show you the view which I have of the moneys that would remain in the hands of the Commissioners on the loans heretofore known to have been effected, after paying all the bills heretofore drawn and deducting the interest on the Dutch and Antwerp loans to the end of the present year; namely, 2,120,477 guilders and 15 stivers. From this sum you will only have to deduct, to satisfy any further disposition on my part, the sum of five hundred thousand guilders, still intended to be drawn for.

This statement, however, ought not to be acted upon by you as definitively accurate. It will be proper that you ascertain with the Commissioners with greater certainty what will remain at your disposal.

Mr. Morris must have misapprehended the tenor of the Secretary of State's letter, from which he inferred that it was the intention of this government to transfer to France the loss by depreciation on the assignats. It has been determined by the President that the United States will not take advantage of the

depreciation, but will make an equitable adjustment of the affair.

You observe that "*the rate of exchange* and the *current difference* between specie and paper being known here, (that is at Paris,) furnish the basis for regulating the business."

I remark that much will depend on the manner of applying these data. They may be so applied as to create a positive loss to the United States; as, if the rate of exchange below par should be less than the rate of depreciation, and the former should be added, the latter deducted.

For example: by a French paper of the 20th of April, if I understand it aright, exchange between Paris and Amsterdam was about 36 per cent. against Paris—the depreciation of the assignats about 60 per cent.

If, then, the computation was made by adding the rate of exchange, and deducting the rate of depreciation, there would be a loss upon every hundred guilders in Amsterdam, paid in Paris, of 45 guilders and $\frac{60}{100}$ of a guilder.

Thus, add to 100 guilders 36 per cent., for the rate of exchange, the product is . . . . . 136 guilders.

Deduct, for depreciation, 60 per cent., or . 81.60

There would remain, 54.40

as the equivalent for 100 guilders in Amsterdam, which would involve a loss of 45-60 guilders per hundred.

I take it for granted that this method of applying the data cannot have been contemplated, as it would throw upon the United States a heavy real loss, in consequence of the disorders which exist in the affairs of France. Though the United States are not disposed to take any undue advantage, they cannot be supposed to be willing to suffer a loss.

You will have perceived, from my letter of the 4th of June last, that it was the President's pleasure that your agency in the whole of the pecuniary affairs originally committed to you, as well respecting the debt to France as otherwise, should continue, and that Mr. Morris, as representative of the United States at the court of France, would be instructed to co-operate. I under-

stand the Secretary of State that the instruction has been forwarded, though I feel full confidence that the requisite co-operation will have been afforded, independently of any instruction.

P. S. A copy of the report of the 23d of January last is here inclosed.

## A.

*A Statement of the Payments to be made by Messrs. Willink, Van Staphorst & Hubbard, and of the moneys in their hands on the 1st of February*, 1792.

| | | |
|---|---|---|
| The account current of the said date states a balance due to the United States, of | | 2,500,220 |
| On the last three million loan they received— | | |
| 1791, Dec. 31, | 509,000 | |
| 1792, Jan. 31, | 701,000 | |
| Remained to be received, | 1,790,000 | |
| | 3,000,000 | 1,790,000 |
| In the hands of the Commissioners, | | 4,290,220 |
| Payments to be made: | | |
| Drafts remaining unpaid, as per list B, | 175,044.15 | |
| Jan. 27, draft No. 541, in favor of Thos. Jefferson, | 95,947.10 | |
| Apl. 17, drafts Nos. 542, 628, John Kean, | 500,000 | |
| June 30, draft No. 630, Thos. Jefferson, | 123,750 | |
| July, drafts Nos. 631, 715,* John Kean, | 500,000 | |
| | 1,394,742.5 | |
| Interest to be paid: | | |
| March 1st, on 2½ million, at 5 per cent., | 125,000 | |
| June 1st, on 7 million, at 5 per cent., | 350,000 | |
| Sept 1st, on 6 million, at 6 per cent., | 300,000 | |
| | | 2,169,742.5 |
| Leaving the sum not disposed of | | 2,120,477.15 |

JOHN MEYER, *Pl. Clerk.*

Treasury Department, July 25th, 1790.

* Some of these drafts remain yet to be drawn.

## B.

*A Statement of the Treasury Drafts on the Commissioners in Amsterdam, which remained unpaid on the 1st of February, 1792.*

| 1791. | | | | | Guilders. |
|---|---|---|---|---|---|
| October 31, No. 361, | | | | | 10,000 |
| November 2, No. 386, 391—6 drafts, | | a 4,000 | each, | | 24,000 |
| " 2, | 410, 411—2 drafts, | a 3,000 | " | | 6,000 |
| " 5, | 425, 426 " " | | | | 3,044.15 |
| " 8, | 439, | | | | 918.14.8 |
| " 10, | 442, 450—9 " | a 1,000 | " | | 9,000 |
| " 10, | 454, 459—6 " | a 1,000 | " | | 6,000 |
| " 10, | 460, 467—8 " | a 2,000 | " | | 16,000 |
| " 10, | 469, 480—12 " | a 2,000 | " | | 24,000 |
| " 10, | 481, 492—12 " | a 3,000 | " | | 36,000 |
| " 10, | 500, | | | | 3,000 |
| " 10, | 514, | | | | 1,000 |
| " 10, | 516, | | | | 1,061.5.8 |
| " 10, | 519, 522—4, " | a 5,000 | " | | 20,000 |
| " 10, | 523, | | | | 2,000 |
| " 10, | 526, | | | | 4,000 |
| " 10, | 527, | | | | 5,000 |
| " 10, | 537, | | | | 4,000 |
| | | | | | 175,044.15 |

JOHN MEYER, *Pl. Clerk.*

Treasury Department, July 5th, 1790.

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### WASHINGTON TO HAMILTON.

(PRIVATE AND CONFIDENTIAL.)

MOUNT VERNON, July 29, 1792.

MY DEAR SIR:

I have not yet received the new regulation of allowances to the surveyors or collectors of the duties on spirituous liquors;—but this by the bye. My present purpose is to write you a letter on a more interesting and important subject. I shall do it in strict confidence, and with frankness and freedom.

On my way home, and since my arrival here, I have endeavored to learn from sensible and moderate men, known friends to the government, the sentiments which are entertained of public measures. These all agree that the country is prosperous and happy; but they seem to be alarmed at that system of policy, and those interpretations of the Constitution, which have taken place in Congress.

Others, less friendly perhaps to the government, and more disposed to arraign the conduct of its officers (among whom may be classed my neighbor and quondam friend, Colonel M.), go further, and enumerate a variety of matters, which, as well as I can recollect, may be adduced under the following heads, viz.:—

*First.*—That the public debt is greater than we can possibly pay before other causes of adding new debt to it will occur; and that this has been artificially created by adding together the whole amount of the debtor and creditor sides of the accounts, instead of taking only their balances, which could have been paid off in a short time.

*Second.*—That this accumulation of debt has taken for ever out of our power those easy sources of revenue which, applied to the ordinary necessities and exigencies of government, would have animated them habitually, and covered us from habitual murmurings against taxes and tax-gatherers; referring extraordinary calls for extraordinary occasions, would animate the people to meet them.

*Third.*—That the calls for money have been no greater than we must generally expect, for the same or equivalent exigencies; yet we are already obliged to strain the *impost* till it produces clamor, and will produce evasion, and war on our citizens to collect it, and even to resort to an *excise law*, of odious character with the people; partial in its operation; unproductive unless enforced by arbitrary and vexatious means, and committing the authority of the government, in parts where resistance is most probable and coercion least practicable.

*Fourth.*—They cite propositions in Congress, and suspect other projects on foot, still to increase the mass of the debt.

*Fifth.*—They say that, by borrowing at two-thirds of the

interest, we might have paid off the principal in two-thirds of the time; but that from this we are precluded by its being made irredeemable but in small portions, and long terms.

*Sixth.*—That this irredeemable quality was given it for the avowed purpose of inviting its transfer to foreign countries.

*Seventh.*—They predict that this transfer of the principal, when completed, will occasion an exportation of three millions of dollars annually for the interest; a drain of coin, of which, as there has been no example, no calculation can be made of its consequences.

*Eighth.*—That the banishment of our coin will be completed by the creation of ten millions of paper money, in the form of bank bills, now issuing into circulation.

*Ninth.*—They think the ten or twelve per cent. annual profit paid to the lenders of this paper medium, are taken out of the pockets of the people, who would have had without interest the coin it is banishing.

*Tenth.*—That all the capital employed in paper speculation is barren and useless, producing, like that on a gaming table, no accession to itself, and is withdrawn from commerce and agriculture, where it would have produced addition to the common mass.

*Eleventh.*—That it nourishes in our citizens vice and idleness instead of industry and morality.

*Twelfth.*—That it has furnished effectual means of corrupting such a portion of the legislature as turns the balance between the honest voters whichever way it is directed.

*Thirteenth.*—That this corrupt squadron, deciding the voice of the legislature, have manifested their dispositions to get rid of the limitations imposed by the Constitution on the general legislature; limitations, on the faith of which the States acceded to that instrument.

*Fourteenth.*—That the ultimate object of all this is, to prepare the way for a change from the present republican form of government to that of a monarchy, of which the British constitution is to be the model.

*Fifteenth.*—That this was contemplated in the Convention

they say is no secret, because its partisans have made none of it. To effect it then was impracticable; but they are still eager after their object, and are predisposing every thing for its ultimate attainment.

*Sixteenth.*—So many of them have got into the legislature, that, aided by the corrupt squadron of paper dealers, who are at their devotion, they make a majority in both houses.

*Seventeenth.*—The republican party who wish to preserve the government in its present form are fewer, even when joined by the two, three, or half a dozen antifederalists, who, though they dare not avow it, are still opposed to any general government; but, being less so to a republican than a monarchical one, they naturally join those whom they think pursuing the lesser evil.

*Eighteenth.*—Of all the mischiefs objected to the system of measures before mentioned, none, they add, is so afflicting, and fatal to every honest hope, as the corruption of the legislature; as it was the earliest of these measures, it became the instrument for producing the rest, and will be the instrument for producing in future a king, lords, and commons, or whatever else those who direct it may choose. Withdrawn such a distance from the eye of their constituents, and these so dispersed as to be inaccessible to public information, and particularly to that of the conduct of their own representatives, they will form the worst government upon earth, if the means of their corruption be not prevented.

*Nineteenth.*—The only hope of safety, they say, hangs now on the numerous representation which is to come forward the ensuing year; but should the majority of the new members be still in the same principles with the present—show so much dereliction to republican government, and such a disposition to encroach upon, or explain away the limited powers of the Constitution, in order to change it, it is not easy to conjecture what would be the result, nor what means would be resorted to for correction of the evil. True wisdom, they acknowledge, should direct temperate and peaceable measures, but add, the division of sentiment and interest happens, unfortunately, to be so geographical, that no mortal cay say that what is most wise and temperate, would pre-

vail against what is more easy and obvious; they declare they can contemplate no evil more incalculable than the breaking of the Union into two or more parts; yet when they view the mass which opposed the original coalescence; when they consider that it lay chiefly in the southern quarter—that the legislature have availed themselves of no occasion of allaying it, but on the contrary, whenever northern and southern prejudices have come into conflict, the latter have been sacrificed and the former soothed.

*Twentieth.*—That the owners of the debt are in the southern, and the holders of it in the northern division.

*Twenty-first.*—That the antifederal champions are now strengthened in argument by the fulfilment of their predictions, which has been brought about by the monarchical federalists themselves; who, having been for the new government merely as a stepping-stone to monarchy, have themselves adopted the very construction, of which, when advocating its acceptance before the tribunal of the people, they declared it insusceptible, whilst the republican federalists, who espoused the same government, for its intrinsic merits, are disarmed of their weapons, that which they denied as prophecy being now become true history. Who therefore can be sure, they ask, that these things may not proselyte the small number which was wanting to place the majority on the other side? and this, they add, is the event at which they tremble.

These, as well as my memory serves me, are the sentiments which, directly and indirectly, have been disclosed to me.

To obtain light, and to pursue truth, being my sole aim, and wishing to have before me *explanations* of, as well as the *complaints*, on measures in which the public interest, harmony, and peace is so deeply concerned, and my public conduct so much involved, it is my request, and you would oblige me in furnishing me, with your ideas upon the discontents here enumerated—and for this purpose I have thrown them into heads or sections, and numbered them, that those ideas may apply to the correspondent numbers.

Although I do not mean to hurry you in giving your thoughts on the occasion of this letter, yet, as soon as you can

make it convenient to yourself, it would, for more reasons than one, be agreeable and very satisfactory to me.

The enclosure in your letter of the 16th was sent back the post after I received it, with my approving signature; and in a few days I will write to the purpose mentioned in your letter of the 22d, both to the Secretary of War and yourself. At present all my business, public and private, is on my own shoulders. The two young gentlemen who came home with me, being on visits to their friends; and my nephew, the Major, too much indisposed to afford me any aid in copying, or other matters.

With affectionate regard, I am, &c.

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### HAMILTON TO WASHINGTON.

PHILADELPHIA, July 30, 1792.

SIR:

I received the most sincere pleasure at finding in our late conversation, that there was some relaxation in the disposition you had before discovered to decline a re-election. Since your departure, I have left no opportunity of sounding the opinions of persons, whose opinions were worth knowing, on these two points. 1st. The effect of your declining upon the public affairs, and upon your own reputation. 2dly. The effect of your continuing, in reference to the declarations you have made of your disinclination to public life; and I can truly say that I have not found the least difference of sentiment, on either point. The impression is uniform, that your declining would be to be deplored as the greatest evil that could befall the country at the present juncture, and as critically hazardous to your own reputation—that your continuance will be justified in the mind of every friend to his country, by the evident necessity for it. 'Tis clear, says every one with whom I have conversed, that the affairs of the national government are not yet firmly established—that its enemies, generally speaking, are as inveterate as ever—that their

enmity has been sharpened by its success, and by all the resentments which flow from disappointed predictions and mortified vanity—that a general and strenuous effort is making in every State, to place the administration of it in the hands of its enemies, as if they were its safest guardians—that the period of the next House of Representatives is likely to prove the crisis of its permanent character—that if you continue in office, nothing materially mischievous is to be apprehended—if you quit, much is to be dreaded—that the same motives which induced you to accept originally ought to decide you to continue till matters have assumed a more determined aspect—that indeed it would have been better, as it regards your own character, that you had never consented to come forward, than now to leave the business unfinished and in danger of being undone—that in the event of storms arising, there would be an imputation either of want of foresight or want of firmness—and in fine, that on public and personal accounts, on patriotic and prudential considerations, the clear path to be pursued by you will be, again to obey the voice of your country; which it is not doubted will be as earnest and as unanimous as ever.

On this last point, I have some suspicion that it will be insinuated to you, and perhaps (God forgive me, if I judge hardly) with design to place before you a motive for declining—that there is danger of a division among the electors, and of less unanimity in their suffrages than heretofore. My view of this matter is as follows.

While your first election was depending, I had no doubt that there would be characters among the electors, who, if they durst follow their inclinations, would have voted against you; but that in all probability they would be restrained by an apprehension of public resentment—that nevertheless it was possible a few straggling votes might be found in opposition, from some headstrong and fanatical individuals—that a circumstance of this kind would be in fact, and ought to be estimated by you, as of no importance, since there would be sufficient unanimity to witness the general confidence and attachment towards you.

My view of the future accords exactly with what was my

view of the past. I believe the same motives will operate to produce the same result. The dread of public indignation will be likely to restrain the indisposed few. If they can calculate at all, they will naturally reflect that they could not give a severer blow to their cause than by giving a proof of hostility to you. But if a solitary vote or two should appear wanting to perfect unanimity, of what moment can it be? Will not the fewness of the exceptions be a confirmation of the devotion of the community to a character which has so generally united its suffrages after an administration of four years at the head of a new government, opposed in its first establishment by a large proportion of its citizens, and obliged to run counter to many prejudices in devising the arduous arrangements requisite to public credit and public order? Will not those who may be the authors of any such exceptions, manifest more their own perverseness and malevolence than any diminution of the affection and confidence of the nation? I am persuaded that both these questions ought to be answered in the affirmative, and that there is nothing to be looked for, on the score of diversity of sentiment, which ought to weigh for a moment.

I trust, sir, and I pray God, that you will determine to make a further sacrifice of your tranquillity and happiness to the public good. I trust that it need not continue above a year or two more; and I think that it will be more eligible to retire from office before the expiration of a term of election, than to decline a re-election.

The sentiments I have delivered upon this occasion, I can truly say, proceed exclusively from an anxious concern for the public welfare, and an affectionate personal attachment. These dispositions must continue to govern in every vicissitude one who has the honor to be, very truly and respectfully, &c.

August 3d. Since writing the foregoing, I am favored with your interesting letter of the 29th of July. An answer to the points raised is not difficult, and shall as soon as possible be forwarded.

WASHINGTON TO HAMILTON.

MOUNT VERNON, 1st August, 1792.

SIR:

I learn with pleasure from the War Office, by the Secretary's last dispatches, that our north-western frontier is in a state of tranquillity. It may be construed into an indication that some of the messages which have been sent by government, have reached the hostile tribes, and have occasioned them to deliberate thereon. Devoutly is it to be wished that the result may be favorable, both for themselves and the United States.

No expectation of this, however, ought to suspend, or in the least degree relax, the preparations for war; but as war under any circumstances is expensive, and, with such a long and rugged land transportation as the one by which we have to convey the supplies for the army, must for the quantum of them be extremely so, it behoves us to be as precise in all our arrangements, as economical in our provisions, as strict in our issues, and as correct in accounting for them to the War or Treasury Departments (as the case may happen to be) as possible. That I may know under what regulation these matters are, I have by this day's post written to the Secretary of War, desiring him to report to me the mode which is pursued by his direction from thence, for providing, transporting, issuing, and accounting for them. If the Treasury Department has an agency in any of these matters, I require a similar report from thence also.

Mr. Kean, by a letter which I have received from him, accepts his renewed commission for settling the accounts between the United States and the individual States, which, please to say to him, gives me pleasure; and add, that any efforts he can make to bring this business to a speedy and happy issue, I shall consider as rendering an important service to the Union, because I view the closing of the accounts speedily as extremely essential to its interest and tranquillity. Let me know if Mr. Langdon, the commissioner, is returned to his duty; and, in that case, when. I am, dear sir, &c.

### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, 3d August, 1792.

SIR:

I have the honor to inclose a letter from the Commissioner of the Revenue of the 25th of July, on the subject of a provisional contract for the supply of the light-house in New Hampshire; together with the contract for your consideration and decision. I agree in the opinion expressed by the Commissioner of the Revenue.

With the most perfect and truest attachment, &c.

P. S.—Inclosed you will be pleased to receive the copy of a letter of the 31st of May, just received from our Commissioners at Amsterdam. It announces a further loan of 3,000,000 of florins, at 4 per cent.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, August 4th, 1792.

SIR:

Since my last to you on the 25th ultimo, I have received a letter from our Commissioners at Amsterdam, informing me of their having recently instituted another loan for the United States, of three millions, at 4 per cent. interest, to be dated the 1st of June last.

I have concluded to destine the money, arising from this loan, towards paying the debt due to France, and you will accordingly apply it to that object.

JEFFERSON TO TERNANT.

August, 1792.

I have communicated to the President what passed between us the other day on the subject of the payments made to France by the United States in the assignats of that country since they have lost the par with gold and silver; and after conferences by his instruction with the Secretary of the Treasury, I am authorized to inform you that the government have no idea of paying their debt in a depreciated medium, and that they will take measures for making these payments in their just value, avoiding all benefit from depreciation, and desiring on their part to be guarded against any unjust loss from the circumstance of mere exchange.

I have the honor to be, with the most perfect esteem and respect, &c.

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HAMILTON TO JEFFERSON.

August, 1792.

Mr. Hamilton presents his compliments to the Secretary of State. He would think the turn of expression on the whole safer, if instead of what follows the words "depreciated medium" the following was substituted—"and that in the final liquidation of the payments, which shall have been made, due regard will be had for an equitable allowance for the circumstance of depreciation."

## WASHINGTON TO HAMILTON.

MOUNT VERNON, 5th August, 1792.

SIR:

Since the date of my last dispatch to you of the 1st instant I have received your letters of the 26th and 30th ultimo, and have affixed my signature to the arrangement of compensations to the officers of inspection, in consequence of additional latitude given to the President of the United States, by the act of the last session, entitled "An act concerning the duties on spirits distilled within the United States."

I have done this on full conviction, that the best information the nature of the case would admit has been obtained at the treasury, to keep the aggregate within the limitations of the law, and to proportion the compensation to the services of the respective officers; presuming also, that it appeared, from a full view of circumstances, and benefits likely to be derived from the measure to the public, that an increase of the officers of revenue was really necessary, for I should be unwilling to add to the former establishment, unless the propriety of it was apparent. Unless the Attorney-General should be of opinion, that the President of the United States has power, under the act of March, 1791, or the subsequent one of the last session, to appoint, in the recess of the Senate, an inspector of the survey newly instituted in Maryland, it must remain, as is proposed, under the immediate direction of the supervisor.

If after these regulations are in operation, opposition to the due exercise of the collection is still experienced and peaceable procedure is no longer effectual, the public interest and my duty will make it necessary to enforce the laws respecting this matter; and however disagreeable this would be to me, it must nevertheless take place.

The collector was not at Baltimore when I passed through that place; but from the naval officer I learned, that the service would sustain no loss by the resignation of the master of the Maryland revenue cutter, that the first mate was a more compe-

tent character, and that the general expectation was that he would be appointed to command it. That I might know how far the sentiments of others accorded with those of the naval officer, I requested the supervisor, Mr. Gale, to make inquiry, and to inform me of the result, but not having heard from him since, the first mate (his name I do not recollect) may be notified by you of my intention to commission him master, so soon as I am provided with commissions for that purpose. At present I have none. The same may be given to John Adams, as first, and Benjamin Gunnison as second mate of the revenue cutter in New Hampshire; and to Ashur Cook as first, and John Fenley as second mate of the New-York cutter. The third mate for the cutter may remain for further inquiry and consideration.

If your information with respect to the proposed characters for the cutter in New Hampshire, is not such as you can entirely rely upon, Mr. Lear, who is on the spot, might afford you some aid in the investigation of them or others.

I am, Sir, &c.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, August 10th, 1792.

SIR:

I have been duly honored with your letters of the 1st and 5th instant. A copy of the latter is inclosed according to your desire.

You may depend upon it, sir, that nothing shall be wanting in this department to furnish all requisite supplies for the army with efficiency and economy, and to bring to exact account all persons concerned in them as far as shall consist with the powers of the department. Hitherto moneys have been furnished to the War Department as they have been called for, for procuring all those articles which have not been objects of direct contract with the Treasury. And I learn from the Secretary of War that every thing is in great maturity.

Under the former system, provisions and clothing were the only articles which the Treasury had the charge of procuring; the receiving, issuing, and inspecting their quality belonged to the Department of War by usage.

The act of the last session, entitled "An act making alterations in the Treasury and War Departments," prescribes that all purchases and contracts for all supplies for the use of the Department of War, be made *by* or *under the direction of* the Treasury Department.

As much progress has been made in the preparation for the campaign, prior to the passing of this act, by the Secretary of War, I thought it best to continue the business under his immediate care for some time—till in fact all the arrangements begun should be completed. It is now, however, determined that on the first of September the business of procuring all supplies will be begun under the immediate direction of the Treasury, upon estimates and requisitions from time to time furnished and made by the Department of War.

The arrangement which is contemplated for this purpose is the following:—Provisions and clothing will be provided as heretofore, by contracts made by the Secretary of the Treasury pursuant to previous advertisements. Articles in the quartermaster's department will be to be procured by him, or his agents or deputies; for which purpose, advances of money will be made to him directly, to be accounted for to the Treasury by him. Ordnance stores, Indian goods, and all contingent supplies, will be procured by an agent who will be constituted for the purpose, with an allowance of eight hundred dollars a year in lieu of commission. Accounts for his purchases, in every case in which it can conveniently be done (which will comprehend the greatest number of cases), will be settled immediately with the Treasury, and the money paid directly to the individuals. In other cases, advances on account will be made to the agent, to be accounted for directly to the Treasury.

A leading object of this arrangement is to exempt the officers, both of the War and Treasury Departments, from the ill-natured suspicions which are incident to the actual handling and dis-

bursements of public money. None of the interior officers of either department, except the Treasurer, will have any concern with it.

The supplies of every kind will be delivered to the order of the Department of War. The issuing of them and the accounting for the issues (except as to provisions, which are directly issued by the contractors to the troops, and which are proved to the Treasury upon vouchers prescribed for the purpose) appertain to the Department of War. The regulations which have been adopted for the purpose, will no doubt be early reported to you by the Secretary at War, as well as those which have been concerted with the Treasury respecting the paying and accounting for the pay of the troops.

I beg leave to assure you, that, in the application of the general arrangement which you have adopted respecting the execution of the act concerning distilled spirits, the greatest attention will be paid to economy, as far as the precautions of the Treasury can insure it.

I presume it to have been your intention that the opinion of the Attorney-General should be taken, as to the power of the President to appoint the supplementary officers contemplated during the recess of the Senate; which shall accordingly be done.

It affords me much satisfaction to observe that your mind has anticipated the decision to enforce the law, in case a refractory spirit should continue to render the ordinary and more desirable means ineffectual. My most deliberate reflections have led me to conclude, that the time for acting with decision is at hand; and it is with pleasure I can add, that an increasing acquiescence is likely to render this course the less difficult in the cases in which an uncomplying temper may finally prevail.

I shall without delay execute your directions respecting the officers of the cutters.

HAMILTON TO ADAMS.

PHILADELPHIA, Aug. 16, 1792.

DEAR SIR:

I have been duly favored with your letter of the 4th instant. A warrant for one thousand dollars in your favor has issued. If any authorization from you had been sent to your son or any one else, your signature on the warrant would have been unnecessary. But as it is, it will be indispensable. Perhaps, however, the Treasurer may pay in expectation of it.

The question when the Vice-President entered on the duties of his office is open at the Treasury; though an opinion has obtained that the taking of the oath was the criterion. This has been founded on two considerations,—analogy to the case of the President. The Constitution requires that he shall take an oath *before* he enters upon the *execution* of his office. He cannot enter upon the duties of it without entering upon the execution of it, and he cannot legally do the latter till he has taken the oath prescribed. The same injunction, however, is not laid upon the Vice-President; and therefore, except by analogy, resort must be had to the second consideration, namely, that the taking of the oath of office is the legal act of acceptance, and may be supposed to date the commencement of service.

But this reasoning, it must be confessed, is not conclusive; and therefore the opinion of the Attorney-General will be taken, both as to the President and Vice-President, and I presume will guide in the adjustment.

Twenty thousand dollars have been appropriated, and the advances by anticipation may reach that limit.

You forgot that Mr. Clinton could feast upon what would starve another. He will not, however, have an opportunity of making the experiment; and I hope the starvation policy will not long continue fashionable.

Your confirmation of the good disposition of New England is a source of satisfaction. I have a letter from a well-informed friend in Virginia, who says, "All the persons I converse with

are prosperous and happy, and yet most of them, including the friends of the government, appear to be much alarmed at a supposed system of policy tending to subvert the republican government of the country." Were ever men more ingenious to torment themselves with phantoms?

Adieu, my dear sir, and believe me always very respectfully and affectionately, &c.

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MORRIS TO HAMILTON.

PARIS, August 17th, 1792.

DEAR SIR:

Mr. Short, just before he departed from this city, left with me a *memoir* in Dutch, respecting the mint. I was to get it translated for you, but not having been able to find a person acquainted with the Dutch and English languages, I have now determined to send you the original, which you will find here inclosed. I hope it may prove useful, and answer the end you had in view. I have transmitted to Mr. Jefferson copies of my correspondence with the Commissioners of the Treasury here, respecting our debt. You seem to have supposed, that the instalments due had been paid, and this may turn out to be the case, when the account shall have been strictly examined, which I shall take care of. Mr. Short left (as I presume he informed you) this business unfinished, supposing that my powers would be competent to it, which they are not; and indeed I should be glad to avoid all interference in pecuniary affairs, if possible; not on account of the labor, for you may lay as much of that on me as you please, but I would avoid all occasions of slanderous imputation.

I formerly recommended to Mr. Short the opening of a loan at Antwerp, and it was attended with the best effects; for the capitalists of Amsterdam who had shortly before induced our Commissioners to believe that money could not be obtained there under five per cent., soon after let us have it at four. This I was

sure would happen, for I had been in Holland, had studied the character of the money-lending people, and made myself acquainted with the manner of transacting business.

I am still of opinion that it is wise to multiply the scenes on which to display our credit. Those who have lent money to a nation, naturally incline to speak well of that nation, first to justify the confidence they have placed, and next to increase the value of the stock they possess. It may at first seem more eligible, because more convenient, to perform all our pecuniary operations at one place, and those who are interested in establishing that doctrine, will find many plausible arguments in support of their favorite theory, just as somebody (I believe it was Silas Dean) endeavored to prove, that we had better buy teas and nankins in London than in China. I remember the thing made an impression on me at the time, as the India Company were then buying at Dunkirk some teas, which had been shipped from America.

To return from the digression, I apprehend that confining this business to one spot, may, in the end, have a very unfavorable influence both on our commerce and exchange, because the necessity of remittances being known, and the period also, capitalists can take their measures beforehand to give you the law, and if, which God forbid, public events should compel us to make loans, our creditors knowing our absolute dependence *on them alone*, will impose whatever terms they please. I do not dwell on these topics, because a word is sufficient to you.

GOUVERNEUR MORRIS.

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## HAMILTON TO WASHINGTON.

PHILADELPHIA, Aug. 18, 1792.

SIR:

I am happy to be able, at length, to send you answers to the objections which were communicated in your letter of the 29th of July.

They have unavoidably been drawn in haste, too much so, to do perfect justice to the subject, and have been copied just as they flowed from my heart and pen, without revision or correction. You will observe, that here and there some severity appears. I have not fortitude enough always to hear with calmness calumnies which necessarily include me, as a principal agent in the measures censured, of the falsehood of which I have the most unqualified consciousness. I trust I shall always be able to bear, as I ought, imputations of errors of judgment; but I acknowledge that I cannot be entirely patient under charges, which impeach the integrity of my public motives or conduct. I feel that I merit them *in no degree;* and expressions of indignation sometimes escape me, in spite of every effort to suppress them. I rely on your goodness for the proper allowances.

With high respect and the most affectionate attachment, I have the honor to be, sir, &c.

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## OBJECTIONS AND ANSWERS RESPECTING THE ADMINISTRATION OF THE GOVERNMENT.

OBJECTION 1.—The public debt is greater than we can possibly pay before other causes of adding to it will occur; and this has been artificially created by adding together the *whole amount* of the debtor and creditor sides of the accounts.

ANSWER.—The public debt was produced by the late war. It is not the fault of the present government that it exists; unless it can be proved, that public morality and policy do not require of a government an honest provision for its debts. Whether it is greater than can be paid before new causes of adding to it will occur, is a problem incapable of being solved, but by experience; and this would be the case if it were not one-fourth as much as it is. If the policy of the country be prudent, cautious, and neutral towards foreign nations, there is a rational probability that war may be avoided long enough to wipe off the debt.

The Dutch, in a situation not near so favorable for it as that of the United States, have enjoyed intervals of peace longer than with proper exertions would suffice for the purpose. The debt of the United States, compared with its present and growing abilities, is really a very light one. It is little more than 15,000,000 of pounds sterling—about the annual expenditure of Great Britain.

But whether the public debt shall be extinguished or not, within a moderate period, depends on the temper of the people. If they are rendered dissatisfied by misrepresentations of the measures of the government, the government will be deprived of an efficient command of the resources of the community towards extinguishing the debt. And thus those who clamor, are likely to be the principal causes of protracting the existence of the debt.

As to its having been artificially increased, this is desired; perhaps, indeed, the true reproach of the system which has been adopted, is, that it has artificially diminished the debt, as will be explained by and by.

The assertion that the debt has been increased, by adding together the whole amount of the debtor and creditor sides of the account, not being easy to be understood, is not easy to be answered; but an answer shall be attempted.

The thirteen States, in their *joint* capacity, owed a *certain* sum. The same States, in their *separate* capacities, owed *another sum*. These two sums constitute the *aggregate* of the *public debt*. The PUBLIC, in a political sense, compounded of the governments of the Union and of the several States, was the DEBTOR. The individuals who hold the various evidences of debt were the CREDITORS. It would be nonsense to say, that the combining of *the two parts* of the public debt is adding together the debtor and creditor sides of the account. So great an absurdity cannot be supposed to be intended by the objection. Another meaning must therefore be sought for.

It may possibly exist in the following misconception. The States, individually, when they liquidated the accounts of individuals for services and supplies towards the common defence,

during the late war, and gave certificates for the sums due, would naturally charge them to the United States as contributions to the common cause. The United States, in assuming to pay those certificates, charge themselves with them. And it may be supposed that here is a double charge for the same thing.

But as the amount of the sum assumed for each State, is by the system adopted to be charged to such State, it of course goes in extinguishment of so much of the first charge as is equal to the sum assumed, and leaves the United States chargeable only once, as ought to be the case.

Or perhaps the meaning of the objection may be found in the following mode of reasoning. Some States, from having disproportionately contributed during the war, would probably on a settlement of accounts be found debtors, independently of the assumption. The assuming of the debts of such States increases the balances against them; and as these balances will ultimately be remitted, from the impracticability of enforcing their payment, the sum assumed will be an extra charge upon the United States, increasing the mass of the debt.

This objection takes it for granted, that the balances of the debtor States will not be exacted; which, by the way, is no part of the system, and if it should eventually not prove true, the foundation of the reasoning would fail. For it is evident, if the balances are to be collected, (unless there be some undiscovered error in the principle by which the accounts are to be adjusted,) that one side of the account will counterpoise the other. And every thing as to the quantum of debt will remain in *statu quo*.

But it shall be taken for granted, that the balances will be remitted; and still the consequence alleged does not result. The reverse of it may even take place. In reasoning upon this point, it must be remembered that impracticability would be alike an obstacle to the collection of balances, without as with the assumption.

This being the case, whether the balances to be remitted will be increased or diminished must depend on the relative proportions of outstanding debts. If a former *debtor* State owes to individuals a smaller sum, in proportion to its contributive faculty,

than a former *creditor* State, the assumption of the debts of both to be provided for out of a *common fund* raised upon them proportionally, must necessarily, on the idea of a remission of balances, tend to restore equality between them, and lessen the balance of the debtor State to be remitted.

How the thing may work upon the whole, cannot be pronounced without a knowledge of the situation of the account of each State; but all circumstances that are known, render it probable that the ultimate effect will be favorable to justice between the States, and that there will be inconsiderable balances either on one side or on the other.

It was observed, that perhaps the true reproach of the system which has been adopted is, that it has artificially decreased the debt. This is explained thus:

In the case of the debt of the United States, interest upon two-thirds of the principal only, at 6 per cent., is immediately paid; interest upon the remaining third was deferred for ten years, and only three per cent. has been allowed upon the arrears of interest, making one-third of the whole debt.

In the case of the separate debts of the States, interest upon four-ninths only of the entire sum is immediately paid; interest upon two-ninths was deferred for ten years, and only three per cent. allowed on three-ninths.

The market rate of interest at the time of adopting the funding system, was 6 per cent. Computing, according to this rate of interest, the then present value of 100 dollars of debt, upon an average, principal and interest, was about 73 dollars.

And the present *actual* value, in the market, of 100 dollars, as the several kinds of stock are sold, is no more than 83 dollars and 61 cents. This computation is not made on equal sums of the several kinds of stock, according to which the average value of 100 dollars would be only 78 dollars and 75 cents; but it is made on the proportions which constitute the mass of the debt.

At 73 to 100, the diminution on 60,000,000 is 16,200,000 dollars; at 83 dollars and 61 cents to 100, it is 9,834,000 dollars.

But as the United States, having a right to redeem in cer-

tain proportions, need never give more than par for the 6 per cents., the diminution to them, as purchasers at the present market prices, is 12,168,000 dollars.

If it be said that the United States are engaged to pay the whole sum, at the nominal value, the answer is, that they are always at liberty, if they have the means, to purchase at the market prices; and in all those purchases they gain the difference between the nominal sums and the lesser market rates.

If the whole debt had been provided for at 6 per cent., the market rate of interest when the funding system passed, the market value throughout would undoubtedly have been 100 for 100. The debt may then rather be said to have been artificially decreased by the nature of the provision.

The conclusion from the whole is that, assuming it as a principle that the public debts of the different descriptions were honestly to be provided for and paid, it is the reverse of true that there has been an artificial increase of them. To argue on a different principle, is to presuppose dishonesty, and make it an objection to doing right.

OBJECTION 2.—This accumulation of debt has taken for ever out of our power those easy resources of revenue which, applied to the ordinary necessities and exigencies of government, would have animated them habitually, and covered us from habitual murmurings against taxes and tax-gatherers—reserving extraordinary calls for extraordinary occasions, would animate the people to meet them.

ANSWER.—There having been no accumulation of debt, if what is here pretended to have been the consequence were true, it would only be to be regretted as the unavoidable consequence of an unfortunate state of things. But the supposed consequence does by *no means* exist. The only sources of taxation which have been touched are imported articles, and the single internal object of distilled spirits; lands, houses, the great mass of personal as well as the whole of real property, remain essentially free.

In short, the chief sources of taxation are free for extraordi-

nary conjunctures, and it is one of the distinguishing merits of the system which has been adopted, that it has rendered this far more the case than it was before. It is only to look into the different States to be convinced of it. In most of them, real estate is wholly exempted. In some, very small burdens rest upon it for the purpose of the internal governments. In all, the burdens of the people have been lightened. It is a mockery of truth to represent the United States as a community burdened and exhausted by taxes.

OBJECTION 3.—That the calls for money have been no greater than we must generally expect, for the same or equivalent exigencies; yet we are already obliged to strain the *impost* till it produces clamor, and will produce evasion, and war on our citizens to collect it, and even to resort to an *excise* law, of odious character with the people, partial in its operation, unproductive unless enforced by arbitrary and vexatious means, and committing the authority of the government, in parts where resistance is most probable and coercion least practicable.

ANSWER.—This is mere painting and exaggeration. With the exception of a very few articles, the duties on imports are still moderate—lower than in any other country of whose regulations we have knowledge, except, perhaps, Holland, where, having few productions or commodities of their own, their export trade depends on the exportation of foreign articles.

It is true the merchants have complained; but so they did of the first impost law, for a time; and so men always will do at an augmentation of taxes which touch the business they carry on, especially in a country where no, or scarcely any, *such* taxes before existed. The collection, it is not doubted, will be essentially secure. Evasions have existed, in a degree, and will continue to exist. Perhaps they may be somewhat increased, to what extent can only be determined by experience; but there are no symptoms to induce an opinion that they will materially *increase*. As to the idea of a war upon the citizens to collect the impost duties, it can only be regarded as a figure of rhetoric.

The excise law, no doubt, is a good topic of declamation;

but can it be doubted that it is an excellent and a very fit mean of revenue?

As to the partiality of its operation, it is no more so than any other tax on a consumable commodity, adjusting itself upon exactly the same principles. The consumer, in the main, pays the tax; and if some parts of the United States consume more domestic spirits, others consume more foreign, and both are taxed. There is perhaps, upon the whole, no article of more *general* and *equal* consumption than distilled spirits.

As to its *unproductiveness*, unless enforced by *arbitrary* and *vexatious* means, facts testify the contrary. Already, under all the obstacles arising from its novelty and the prejudices against it in some States, it has been considerably productive; and it is not enforced by any arbitrary or vexatious means; at least, the precautions in the existing laws for the collection of the tax will not appear in that light but to men who regard all taxes, and all the means of enforcing them, as arbitrary and vexatious.

Here, however, there is abundant room for fancy to operate. The standard is in the mind, and different minds will have different standards.

The observation relating to the commitment of the authority of the government, in parts where assistance is most probable and coercion least practicable, has more weight than any other part of this objection. It must be confessed that a hazard of this nature has been run; but if there were motives sufficiently cogent for it, it was wisely run. It does not follow that a measure is bad because it is attended with a degree of danger.

The general inducements to a provision for the public debt, are:

1. To preserve the public faith and integrity, by fulfilling, as far as was practicable, the public engagements.

2. To manifest a due respect for property, by satisfying the public obligations in the hands of the public *creditors*, and which were as much their property as their houses or their lands, their hats or their coats.

3. To revive and establish public credit, the palladium of public safety.

4. To preserve the government itself, by showing it worthy of the confidence which was placed in it; to procure to the community the blessings which in innumerable ways attend confidence in the government, and to avoid the evils which in as many ways attend the want of confidence in it.

The particular inducements to an assumption of the State debts, were:

1. To consolidate the finances of the country, and give an assurance of permanent order in them; avoiding the collision of thirteen different and independent systems of finance under concurrent and coequal authorities, and the scramblings for revenue which would have been incident to so many different systems.

2. To secure to the government of the Union, by avoiding those entanglements, an effectual command of the resources of the Union for present and future exigencies.

3. To *equalize the condition* of the citizens of the several States in the important article of taxation; rescuing a part of them from being oppressed with burdens beyond their strength, on account of extraordinary exertions in the war, and through the want of certain adventitious resources which it was the good fortune of others to possess.

A mind naturally attached to order and system, and capable of appreciating their immense value, unless misled by particular feelings, is struck at once with the prodigious advantages which in the course of time must attend such a simplification of the financial affairs of the country as results from placing all the parts of the public debt upon one footing, under one direction, regulated by one provision. The want of this sound policy has been a continual source of disorder and embarrassment in the affairs of the United Netherlands.

The true justice of the case of the public debt consists in that equalization of the condition of the citizens of all the States which must arise from a consolidation of the debt and common contributions towards its extinguishment. Little inequalities as to the past can bear no comparison with the more lasting inequalities which, without the assumption, would have characterized the future condition of the people of the United States, leaving upon

those who had done most, or suffered most, a great additional weight of burden.

If the foregoing inducements to a provision for the public debt (including an assumption of the State debts) were sufficiently cogent, then the justification of the excise laws lies within a narrow compass. Some further source of revenue, besides the duties on imports, was indispensable, and none equally productive would have been so little exceptionable to the mass of the people.

Other reasons co-operated in the minds of some able men to render an excise at an early period desirable. They thought it well to lay hold of so valuable a resource of revenue before it was generally preoccupied by the State governments. They supposed it not amiss that the authority of the national government should be visible in some branch of internal revenue, lest a total non-exercise of it should beget an impression that it was never to be exercised, and next, that it ought not to be exercised. It was supposed, too, that a thing of the kind could not be introduced with a greater prospect of easy success than at a period when the government enjoyed the advantage of first impressions, when State factions to resist its authority were not yet matured, when so much aid was to be derived from the popularity and firmness of the actual Chief Magistrate.

Facts hitherto do not indicate the measure to have been rash or ill advised. The law is in operation with perfect acquiescence in all the States north of New-York, though they contribute most largely. In New-York and New Jersey it is in full operation, with some very partial complainings fast wearing away. In the greater part of Pennsylvania it is in operation, and with increasing good humor towards it. The four western counties continue exceptions. In Delaware it has had some struggle, which, by the last accounts, was surmounted. In Maryland and Virginia it is in operation, and without material conflict. In South Carolina it is now in pretty full operation, though in the interior parts it has had some serious opposition to overcome. In Georgia no material difficulty has been experienced. North Carolina, Kentucky, and the four western counties of Pennsyl-

vania, present the only remaining impediments of any consequence to the full execution of the law. The latest advices from North Carolina and Kentucky, were more favorable than the former.

It may be added as a well established fact, that the effect of the law has been to encourage new enterprises in most of the States in the business of domestic distillation. A proof that it is perceived to operate favorably to the manufacture, and that the measure cannot long remain unpopular any where.

OBJECTION 4.—Propositions have been made in Congress, and projects are on foot still to increase the mass of the debt.

ANSWER.—Propositions have been made, and no doubt will be renewed by the States interested, to complete the assumption of the State debts. This would add in the first instance to the mass of the *debt of the United States* between three and four millions of dollars, but it would not increase the mass of the *public debt* at all. It would only transfer from particular States to the Union debts which already exist, and which, if the States indebted are honest, must be provided for. It happens that Massachusetts and South Carolina would be chiefly benefited. And there is a moral certainty that Massachusetts will have a balance in her favor more than equal to her remaining debt, and a probability that South Carolina will have a balance sufficient to cover hers. So that there is not likely to be an eventual increase even of the debt of the *United States* by the further assumption. The immense exertions of Massachusetts during the late war, and particularly in the late periods of it when too many of the States failed in their federal duty, are known to every well informed man. It would not be too strong to say, that they were in a great degree the pivot of the revolution. The exertions, sufferings, sacrifices, and losses of South Carolina, need not be insisted upon.

The other States have comparatively none or inconsiderable debts. Can that policy be condemned which aims at putting the burdened States upon an equal footing with the rest? Can that policy be very liberal which resists so equitable an arrange-

ment? It has been said that if they had exerted themselves since the peace, their situation would have been different. But Massachusetts threw her citizens into rebellion by heavier taxes than were paid in any other State, and South Carolina has done as much since the peace as could have been expected, considering the exhausted state in which the war left her.

The only proposition during the last session, or at any antecedent one, which would truly have swelled the debt artificially, was one which Mr. Madison made in the first session, and which was renewed in the last, and generally voted for by those who opposed the system that has prevailed. The object of this proposition was, that all the parts of the State debts which have been *paid*, or otherwise absorbed by them, should be assumed for the benefit of the States and funded by the United States. This measure, if it had succeeded, would truly have produced an immense artificial increase of the debt, but it has twice failed, and there is no probability that it will ever succeed.

OBJECTION 5.—They say that by borrowing at two-thirds of the interest, we might have paid off the principal in two-thirds of the time, but that from this we are precluded by its being made irredeemable but in small portions and long terms.

ANSWER.—*First.* All the foreign loans which were made by the United States prior to the present government, taking into the calculation charges and premiums, cost them more than six per cent. Since the establishment of the present government, they borrowed first at about five and a quarter, including charges, and since, at about four and a quarter, including charges. And it is questionable, in the present state of Europe, whether they can obtain any further loans at so low a rate.

The system which is reprobated is the very cause that we have been able to borrow on so good terms. If one that would have inspired less confidence, certainly if the substitutes which have been proposed, from a certain quarter, had obtained, we could not have procured loans even at six per cent. The Dutch were largely adventurers in our domestic debt before the present government. They did not embark far till they had made inquiries

of influential public characters, as to the light in which the debt was and would be considered in the hands of alienees—and had received assurance that assignees would be regarded in the same light as original holders. What would have been the state of our credit with them, if they had been disappointed, or indeed if our conduct had been in any respect inconsistent with the notions entertained in Europe concerning the maxims of public credit?

The inference is, that our being able to borrow on low terms is a consequence of the system which is the object of censure, and that the thing itself, which is made the basis of another system, would not have existed under it.

*Secondly.* It will not be pretended that we could have borrowed at the proposed low rate of interest in the United States; and all our exertions to borrow in Europe, which have been unremitted, as occasions presented, have not hitherto produced above ——— dollars, not even a sufficient sum to change the form of our foreign debt.

*Thirdly.* If it were possible to borrow the whole sum abroad within a short period, to pay off our debt, it is not easy to imagine a more pernicious operation than this would have been. It would first have transferred to foreigners, by a violent expedient, the whole amount of our debt; and creating a money plethora in the country, a momentary scene of extravagance would have followed, and the excess would quickly have flowed back;—the evils of which situation need not be enlarged upon.

If it be said that the operation might have been gradual, then the end proposed would not have been attained.

*Lastly.* The plan which has been adopted secures, in the first instance, the *identical advantage* which in the other plan would have been *eventual* and *contingent.* It puts one-third of the whole debt at an interest of three per cent. only, and by deferring the payment of interest on a third of the remainder, effectually reduces the interest on that part. It is evident that a *suspension* of interest is in fact a *reduction* of interest. The money which would go towards paying interest in the interval of suspension is an accumulating fund, to be applied towards payment of it when it becomes due, reducing the provision then to be made.

In reality, on the principles of the funding system, the United States reduced the interest on their whole debt, upon an average, to about four and a half per cent., nearly the lowest rate they have any chance to borrow at, and lower than they could possibly have borrowed at in an attempt to reduce the interest on the whole capital by borrowing and paying, probably by one per cent. A demand for large loans, by forcing the market, would unavoidably have raised their price upon the borrower. The above average of four and a half per cent. is found by calculation, computing the then present value of the deferred stock at the time of passing the funding acts, and of course three per cent. on the three per cent. stock.

The funding system, then, secured in the very outset the *precise advantage* which it is alleged would have accrued from having the whole debt redeemable at pleasure. But this is not all. It did more. It left the government still in a condition to enjoy upon five-ninths of the entire debt the advantage of extinguishing it, by loans at a low rate of interest, if they are obtainable. The three per cents, which are one-third of the whole, may always be purchased in the market below par, till the market rate of interest falls to three per cent. The deferred will be purchasable below par, till near the period of the actual payment of interest. And this further advantage will result: in all those purchases the public will enjoy, not only the advantage of a reduction of interest on the sums borrowed, but the additional advantage of purchasing the debt under par, that is, for less than twenty shillings in the pound.

If it be said that the like advantage might have been enjoyed under another system, the assertion would be without foundation. Unless some equivalent had been given for the reduction of interest in the irredeemable quality annexed to the debt, nothing was left, consistently with the principles of public credit, but to provide for the whole debt at six per cent. This evidently would have kept the whole at par, and no advantage could have been derived by purchases under the nominal value. The reduction of interest, by borrowing at a lower rate, is all that would have been practicable, and this advantage has been secured by the

funding system in the very outset, and without any second process.

If no provision for the interest had been made, not only public credit would have been sacrificed, but by means of it the borrowing at a low rate of interest, or at any rate, would have been impracticable.

There is no reproach which has been thrown upon the funding system so unmerited as that which charges it with being a bad bargain for the public, or with a tendency to prolong the extinguishment of the debts. The bargain has, if any thing, been too good on the side of the public; and it is impossible for the debt to be in a more convenient form than it is for a rapid extinguishment.

Some gentlemen seem to forget that the faculties of every country are limited. They talk as if the government could extend its revenue *ad libitum* to pay off the debt. Whereas every rational calculation of the abilities of the country will prove, that the power of redemption which has been reserved over the debt is quite equal to those abilities, and that a greater power would be useless. If happily the abilities of the country should exceed this estimate, there is nothing to hinder the surplus being employed in purchases. As long as the three per cents and deferred exist, those purchases will be under par. If for the stock bearing an immediate interest of six per cent., more than par is given, the government can afford it from the saving made in the first instance.

Upon the whole, then, it is the merit of the funding system to have conciliated these three important points—the restoration of public credit, a reduction of the rate of interest, and an organization of the debt convenient for speedy extinguishment.

OBJECTION 6.—That this irredeemable quality was given to the debt for the *avowed purpose* of inviting its transfer to foreign countries.

This assertion is a palpable misrepresentation. The *avowed purpose* of that quality of the debt, as explained in the report of

the Secretary of the Treasury, and in the arguments in Congress, was to give an *equivalent* for the reduction of interest, that is for deferring the payment of interest on one-third of the principal for three years, and for allowing only three per cent. on the arrears of interest.

It was indeed argued, in confirmation of the reality of the equivalent, that foreigners would be willing to give more where a high rate of interest was *fixed*, than where it was liable to fluctuate with the market. And this has been verified by the fact—for the six per cents. could not have risen for a moment above par, if the rate could have been lowered by redeeming the debt at pleasure. But the inviting of the transfer to foreigners was never assigned as a motive to the arrangement.

And what is more, that transfer will be probably slower with the portion of irredeemability which is attached to the debt than without it, because a larger capital would be requisite to purchase 100 dollars in the former than in the latter case. And the capital of foreigners is limited as well as our own.

It appears to be taken for granted, that if the debt had not been funded in its present shape, foreigners would not have purchased it as they now do; than which nothing can be more ill-founded or more contrary to experience. Under the old Confederation, when there was no provision at all, foreigners had purchased five or six millions of the debt. If any provision had been made, capable of producing confidence, their purchases would have gone on just as they now do; and the only material difference would have been that what they got from us then would have cost them less than what they now get from us does cost them. Whether it is to the disadvantage of the country that they pay more, is submitted.

Even a provision which should not have inspired full confidence would not have prevented foreign purchases. The commodity would have been cheap in proportion to the risks to be run. And full-handed Dutchmen would not have scrupled to amass large sums for trifling considerations, in the hope that time and experience would introduce juster notions into the public councils.

Our debt would still have gone from us, and with it our reputation and credit.

OBJECTION 7.—They predict that this transfer of the principal, when completed, will occasion an exportation of three millions of dollars annually for the interest; a drain of coin, of which, as there has been no example, no calculation can be made of its consequences.

ANSWER.—The same gloomy forebodings were heard in England in the early periods of its funding system. But they have never been realized. The money invested by foreigners in the purchase of its debt, being employed in its commerce, agriculture and manufactures, increased the capital and wealth of the nation more than in proportion to the annual drain for the payment of interest, and created the ability to bear it.

The objection seems to forget that the debt is not transferred for nothing; that the capital paid for the debt is always an equivalent for the interest to be paid to the purchaser. If that capital is well employed in a young country like this, it must be considerably increased, so as to yield a greater revenue than the interest of the money. The country therefore will be a gainer by it, and will be able to pay the interest without inconvenience.

But the objectors suppose that all the money which comes in goes out again, in an increased consumption of foreign luxuries. This, however, is taking for granted what never happened in any industrious country, and what appearances among us do not warrant. The expense of living, generally speaking, is not sensibly increased. Large investments are every day making in shipbuilding, house-building, manufactures, and other improvements, public and private.

The transfer, too, of the whole debt, is a very improbable supposition; a large part of it will continue to be owned by our own citizens. And the interest of that part which is owned by foreigners will not be annually exported, as is supposed. A considerable part will be invested in new speculations—in lands, canals, roads, manufactures, commerce. Facts warrant this supposition. The agents of the Dutch have actually made large investments in a variety of such speculations.

A young country like this is peculiarly attractive. New objects will be continually opening, and the money of foreigners will be made instrumental to their advancement.

OBJECTION 8.—That the banishment of our coin will be completed by the creation of ten millions of paper money, in the form of bank bills, now issuing into circulation.

ANSWER.—This is a mere hypothesis, in which theorists differ. There are no decisive facts on which to rest the question.

The supposed tendency of bank paper to banish specie is from its capacity of serving as a substitute for it in circulation. But as the quantity circulated is proportioned to the demand for it in circulation, the presumption is that a greater quantity of industry is put in motion by it, so as to call for a proportionally greater quantity of *circulating medium* and prevent the banishment of the specie. But however this may be, it is agreed among sound theorists, that banks more than compensate for the loss of the specie in other ways. SMITH, who was witness to their effects in Scotland, where too a very adverse fortune attended some of them, bears his testimony to their beneficial effects in these strong terms (*Wealth of Nations*, Vol. I. Book II. Chap. 11, pages 441 to 444).

OBJECTION 9.—They think the ten or twelve per cent. annual profit paid to the lenders of this paper medium are taken out of the pockets of the people, who would have had without interest the coin it is banishing.

ANSWER.—1. The profits of the bank have not hitherto exceeded the rate of eight per cent. per annum, and perhaps never may. It is questionable whether they can legally make more than ten per cent.

2. These profits can in no just sense be said to be taken out of the pockets of the people. They are compounded of two things—the interest paid by the government on that part of the public debt which is incorporated in the stock of the bank; 2d, the interest paid by *those individuals who borrow* money of the bank on the *sums they borrow*.

As to the first, it is no *new* grant to the bank. It is the old interest on a part of the old debt of this country, substituted by the proprietors of that debt towards constitututing the stock of the bank. It would have been equally payable if the bank had never existed. It is, therefore, nothing new taken out of the pockets of the people.

As to the second, it may with equal propriety be said, when one individual borrows money of another, that the interest which the borrower pays to the lender is taken out of the *pockets of the people.* The case here is not only parallel, but the same. It is the case of one or more individuals borrowing money of a company of individuals associated to lend. None but the actual borrowers pay in either case; the rest of the community have nothing to do with it.

If a man receives a bank bill for the ox or the bushel of wheat which he sells, he pays no more interest upon it than upon the same sum in gold or silver, that is, he pays none at all.

So that, whether the paper banishes specie or not, it is the same thing to every individual through whose hands it circulates, as to the point of interest. Specie no more than bank paper can be borrowed without paying interest for it; and when either is not borrowed, no interest is paid. As far as the government is a sharer in the profits of the bank, which is in the proportion of one-fifth, the contrary of what is supposed happens: *money is put into the pockets of the people.*

All this is so plain and so palpable, that the assertion which is made betrays extreme ignorance or extreme disingenuousness. It is destitute even of color.

OBJECTION 10.—That all the capital employed in paper speculations is barren and useless, producing, like that on a gaming-table, no accession to itself, and is withdrawn from commerce and agriculture, where it would have produced addition to the common mass.

This is a copious subject, which has been fully discussed in the Report of the Secretary of the Treasury, on the subject of manufactures, from page to page . It is true that the

capital—that is, the specie which is employed in paper speculation—while so employed is barren and useless, but the paper itself constitutes a new capital, which, being saleable and transferable at any moment, enables the proprietor to undertake any piece of business as well as an equal sum in coin; and as the amount of the debt circulated is much greater than the amount of the specie which circulates it, the new capital put in motion by it considerably exceeds the old one, which is *suspended*, and there is more capital to carry on the productive labor of the society. Every thing that has value is capital—an acre of ground, a horse, or a cow, or a public or private obligation, which may, with different degrees of convenience, be applied to industrious enterprise. That which, like public stock, can at any instant be turned into money, is of equal utility with money as capital. Let it be examined, whether at those places where there is most debt afloat, and most money employed in its circulation, there is not at the same time a greater plenty of money for every other purpose. It will be found that there is.

But it is in fact quite immaterial to the government, as far as regards the propriety of its measures.

The debt existed; it was to be provided for. In whatever shape the provision was made, the object of speculation and the speculation would have existed. Nothing but abolishing the debt could have obviated it. It is, therefore, the fault of the Revolution, not of the government, that paper speculation exists. An unsound or precarious provision would have increased this species of speculation in its most odious forms; the defects and casualties of the system would have been as much subjects of speculation as the debt itself.

The difference is, that under a bad system the public stock would have been too uncertain an article to be a substitute for money, and all the money employed in it would have been diverted from useful employment, without any thing to compensate for it. Under a good system, the stock becomes more than a substitute for the money employed in negotiating it.

OBJECTION 11.—*Paper Speculations.* That it nourishes in our citizens vice and idleness, instead of industry and morality.

ANSWER.—This proposition, within certain limits, is true. Jobbing in the funds has some bad effects among those engaged in it. It fosters a spirit of gambling, and diverts a certain number of individuals from other pursuits. But if the proposition be true, that stock operates as capital, the effect upon the citizens at large is different. It promotes among them industry, by furnishing a larger field of employment. Though this effect of a funded debt has been called in question in England by some theorists, yet most theorists and all practical men allow its existence. And there is no doubt, as already intimated, that if we look into those scenes among ourselves where the largest portions of the debt are accumulated, we shall perceive that a new spring has been given to industry in various branches.

But, be all this as it may, the observation made under the last head applies here. The debt was the creature of the Revolution. It was to be provided for. Being so, in whatever form, it must have become an object of speculation and jobbing.

OBJECTION 12.—The funding of the debt has furnished effectual means of corrupting such a portion of the legislature as turns the balance between the honest voters whichever way it is directed.

ANSWER.—This is one of those assertions which can only be denied, and pronounced to be malignant and false. No facts exist to support it, and being a mere matter of fact, no argument can be brought to repel it.

The assertors beg the question. They assume to themselves, and to those who think with them, infallibility. Take their words for it, they are the only honest men in the community. But compare the tenor of men's lives, and at least as large a portion of virtuous and independent characters will be found among those whom they malign as among themselves.

A member of a majority of the legislature would say to these defamers, "In your vocabulary, gentlemen, *Creditor* and *Enemy* appear to be synonymous terms; the *support of public credit*, and *corruption*, of similar import—an enlarged and liberal construction of the Constitution, for the public good and for the

maintenance of the due energy of the national authority, of the same meaning with usurpation and a conspiracy to overturn the republican government of the country—every man of a different opinion from your own, an ambitious despot or a corrupt knave. You bring every thing to the standard of your narrow and depraved ideas, and you condemn without mercy or even decency whatever does not accord with it. Every man who is either *too short* or *too long* for your political couch, must be stretched or lopped to suit it. But your pretensions must be rejected; your insinuations despised. Your politics originate in immorality, in a disregard of the maxims of good faith and the rights of property, and if they could prevail, must end in national disgrace and confusion. Your rules of construction for the authorities, vested in the government of the Union, would arrest all its essential movements, and bring it back in practice to the same state of imbecility which rendered the old confederation contemptible. Your principles of liberty are principles of licentiousness incompatible with all government. You sacrifice every thing that is venerable and substantial in society to the vain reveries of a false and new-fangled philosophy. As to the motives by which I have been influenced, I leave my general conduct in private and public life to speak for them.—Go and learn among my fellow-citizens whether I have not uniformly maintained the character of an honest man. As to the love of liberty and country, you have given no stronger proofs of being actuated by it than I have done—cease, then, to arrogate to yourself and to your party all the patriotism and virtue of the country. Renounce, if you can, the intolerant spirit by which you are governed, and begin to reform yourself, instead of reprobating others, by beginning to doubt of your own infallibility."

Such is the answer which would naturally be given by a member of the majority of the legislature to such an objection. And it is the only one that could be given, until some evidence of the supposed corruption should be produced.

As far as I know there is not a member of the legislature who can properly be called a stock-jobber or a paper-dealer. There are several of them who were proprietors of public debt

in various ways; some for money lent and property furnished for the use of the public during the war, others for sums received in payment of debts, and it is supposable enough that some of them had been purchasers of the public debt, with intention to hold it as a valuable and convenient property, considering an honorable provision for it as a matter of course.

It is a strange perversion of ideas, and as novel as it is extraordinary, that men should be deemed corrupt and criminal for becoming proprietors in the funds of their country. Yet I believe the number of members of Congress is very small who have ever been considerable proprietors in the funds. As to improper speculations on measures depending before Congress, I believe never was any body of men freer from them.

There are, indeed, several members of Congress who have become proprietors in the Bank of the United States, and a few of them to a pretty large amount, say 50 or 60 shares. But all operations of this kind were necessarily subsequent to the determination upon the measure; the subscriptions were of course subsequent, and purchases still more so. Can there be any thing really blamable in this? Can it be culpable to invest property in an institution which has been established for the most important national purposes? Can that property be supposed to corrupt the holder? It would indeed tend to render him friendly to the preservation of the bank; but in this, there would be no collision between duty and interest, and it would give him no improper bias on other questions.

To uphold public credit, and to be friendly to the bank, must be presupposed to be *corrupt* things, before the being a proprietor in the funds, or of bank stock, can be supposed to have a *corrupting influence.* The being a proprietor, in either case, is a very different thing from being, in a proper sense of the term, a stock-jobber.

On this point of the corruption of the legislature, one more observation of great weight remains. Those who oppose a funded debt, and mean any provision for it, contemplate an annual one.

Now it is impossible to conceive a more fruitful source of legislative corruption than this. All the members of it who should

incline to speculate, would have an annual opportunity of speculating upon their influence in the legislature to promote or retard, or put off a provision. Every session the question whether the annual provision should be continued, would be an occasion of pernicious caballing and corrupt bargaining. In this very view, when the subject was in deliberation, it was impossible not to wish it decided upon once for all, and out of the way.

OBJECTION 13.—The corrupt squadron deciding the voice of the legislature, have manifested their dispositions to get rid of the limitations imposed by the Constitution on the general legislature; limitations, on the faith of which the States acceded to that instrument.

Here again the objectors beg the question. They take it for granted that the instructions of the Constitution are right, and that the opposite ones are wrong; and with great good nature and candor ascribe the effect of a difference of opinion to a disposition to get rid of the limitations on the government.

Those who have advocated the constructions which have obtained, have met their opponents on the ground of fair argument, and they think have refuted them. How shall it be determined which side is right?

There are some things which the general government has clearly a right to do. There are others, which it has clearly no right to meddle with; and there is a good deal of middle ground, about which honest and well-disposed men may differ. The most that can be said is, that some of this middle ground may have been occupied by the national legislature; and this surely is no evidence of a disposition to get rid of the limitations in the Constitution, nor can it be viewed in that light by men of candor.

The truth is, one description of men is disposed to do the essential business of the nation, by a liberal construction of the powers of the government; another, from disaffection, would fritter away those powers; a third, from an overweening jealousy, would do the same thing; a fourth, from party and personal opposition, are torturing the Constitution into objections to every thing they do not like.

The bank is one of the measures which is deemed by some the greatest stretch of power, and yet its constitutionality has been established in the most satisfactory manner.

And the most incorrigible theorist among its opponents would, in one month's experience, as head of the department of the Treasury, be compelled to acknowledge that it is an absolutely indispensable engine in the management of the finances, and would quickly become a convert to its perfect constitutionality.

OBJECTION 14.—The ultimate object of all this is, to prepare the way for a change from the present republican form of government to that of a monarchy, of which the British constitution is to be the model.

To this there is no other answer than a flat denial, except this: that the project, from its absurdity, refutes itself.

The idea of introducing a monarchy or aristocracy into this country, by employing the influence and force of a government continually changing hands, towards it, is one of those visionary things that none but madmen could meditate, and that no wise man will believe.

If it could be done at all, which is utterly incredible, it would require a long series of time, certainly beyond the life of any individual, to effect it. Who, then, would enter into such a plot? for what purpose of interest or ambition?

To hope that the people may be cajoled into giving their sanctions to such institutions is still more chimerical. A people so enlightened and so diversified as the people of this country, can surely never be brought to it, but from convulsions and disorders, in consequence of the arts of popular demagogues.

The truth unquestionably is, that the only path to a subversion of the republican system of the country is, by flattering the prejudices of the people, and exciting their jealousies and apprehensions, to throw affairs into confusion, and bring on civil commotion. Tired at length of anarchy or want of government, they may take shelter in the arms of monarchy for repose and security.

Those, then, who resist a confirmation of public order, are the true artificers of monarchy. Not that this is the intention of

the generality of them. Yet it would not be difficult to lay the finger upon some of their party who may justly be suspected. When a man, unprincipled in private life, desperate in his fortune, bold in his temper, possessed of considerable talents, having the advantage of military habits, despotic in his ordinary demeanor, known to have scoffed in private at the principles of liberty; when such a man is seen to mount the hobby-horse of popularity, to join in the cry of danger to liberty, to take every opportunity of embarrassing the general government and bringing it under suspicion, to flatter and fall in with all the nonsense of the zealots of the day; it may justly be suspected that his object is to throw things into confusion, that he may "ride the storm and direct the whirlwind."

It has aptly been observed, that *Cato* was the *Tory*, *Cæsar* the Whig of his day. The former frequently resisted; the latter always flattered the follies of the people. Yet the former perished with the republic—the latter destroyed it.

No popular government was ever without its Catilines and its Cæsars:—these are its true enemies.

As far as I am informed, the anxiety of those who are calumniated is to keep the government in the state in which it is, which they fear will be no easy task, from a natural tendency in the state of things to exalt the local on the ruins of the national government. Some of them appear to wish, in a constitutional way, a change in the judiciary department of the government, from an apprehension that an orderly and effectual administration of justice cannot be obtained without a more intimate connection between the State and National tribunals. But even this is not an object of any set of men as a party. There is a difference of opinion about it on various grounds, among those who have generally acted together. As to any other charge of consequence, I believe nobody dreams of it.

'Tis curious to observe the anticipations of the different parties. One side appears to believe that there is a serious plot to overturn the State governments, and substitute a monarchy to the present republican system. The other side firmly believes that there is a serious plot to overturn the general government,

and elevate the separate power of the States upon its ruins. Both sides may be equally wrong, and their mutual jealousies may be naturally causes of the appearances which mutually disturb them and sharpen them against each other.

OBJECTION 15.—This charge, that this was contemplated in the Convention, they say is no secret, because its partisans have made none of it—to effect it then was impracticable; but they are still eager after their object, and are predisposing every thing for its ultimate attainment.

This is a palpable misrepresentation. No man that I know of contemplated the introducing into this country a monarchy. A very small number (not more than three or four) manifested theoretical opinions favorable in the abstract to a Constitution like that of Great Britain; but every one agreed that such a Constitution, except as to the general distribution of departments and powers, was out of the question in reference to this country. The member who was most explicit on this point (a member from New-York) declared in strong terms, that the republican theory ought to be adhered to in this country as long as there was any chance of its success; that the idea of a perfect equality of political rights among the citizens, exclusive of all permanent or hereditary distinctions, was of a nature to engage the good wishes of every good man, whatever might be his theoretic doubts; that it merited his best efforts to give success to it in practice; that hitherto, from an incompetent structure of the government, it had not had a fair trial, and that the endeavor ought then to be to secure to it a better chance of success by a government more capable of energy and order.

There is not a man at present in either branch of the legislature who, that I recollect, had held language in the Convention favorable to monarchy.

The basis therefore of this suggestion fails.

OBJECTION 16.—So many of them have got into the legislature, that, aided by the corrupt squadron of paper dealers, who are at their devotion, they make a majority in both houses.

This has been answered above. Neither description of char-

acter is to be found in the legislature. In the Senate there are nine or ten who were members of the Convention; in the House of Representatives, not more than six or seven.* Of those who are in the last-mentioned house, none can be considered as influential but Mr. Madison and Mr. Gerry. Are they monarchy men?

As to the 17th, 18th, and 19th heads,

They are rather inferences from and comments upon what is before suggested, than specific objections. The answer to them must therefore be derived from what is said under other heads.

It is certainly much to be regretted that party discriminations are so far geographical as they have been, and that ideas of a severance of the Union are creeping in both North and South. In the South, it is supposed that more government than is expedient is desired by the North. In the North, it is believed that the prejudices of the South are incompatible with the necessary degree of government, and with the attainment of the essential ends of national union. In both quarters there are respectable men, who talk of separation as a thing dictated by the different geniuses and different prejudices of the parts. But happily their number is not considerable, and the prevailing sentiment of the people is in favor of their true interest, UNION. And it is to be hoped that the efforts of wise men will be able to prevent a schism which would be injurious in different degrees to different portions of the Union, but would seriously wound the prosperity of all.

As to the sacrifice of Southern to Northern prejudices—if the conflict has been between *prejudices* and *prejudices*, it is certainly to be wished, for mutual gratification, that there had been mutual concession; but if the conflict has been between *great* and substantial national objects on the one hand, and theoretical prejudices on the other, it is difficult to desire that the former should in any instance have yielded.

OBJECTION 20.—The owners of the debt are in the Southern, and the holders of it in the Northern division.

* This computation is from memory.

ANSWER.—If this were literally true, it would be no argument for or against any thing. It would be still politically and morally right for the debtors to pay their creditors.

But it is in *no sense true.* The *owers* of the debt are the people of *every* State, South, Middle, and North. The holders are the individual creditors—citizens of the United Netherlands, Great Britain, France, and of these States, North, Middle, South. Though some men, who constantly substitute hypothesis to fact, imagination to evidence, assert and reassert that the inhabitants of the South contribute *more* than those of the North, yet there is no pretence that they contribute *all;* and even the assertion of greater contribution is unsupported by documents, facts, or, it may be added, probabilities. Though the inhabitants of the South manufacture less than those of the North, which is the great argument, yet it does not follow that they consume more of taxable articles. It is a solid answer to this, that *whites* live better, wear more and better clothes, and consume more luxuries, than blacks, who constitute so considerable a part of the population of the South. That the inhabitants of cities and towns, which abound so much more in the North than in the South, consume more of foreign articles than the inhabitants of the country. That it is a general rule, that communities consume and contribute in proportion to their active or circulating wealth, and that the Northern regions have more active or circulating wealth than the Southern.

If official documents are consulted, though, for obvious reasons, they are not decisive, they contradict rather than confirm the hypothesis of greater proportional contribution in the Southern division.

But, to make the allegation in the objection true, it is necessary not merely that the inhabitants of the South should contribute more, but that they should contribute *all.*

It must be confessed that a much larger proportion of the debt is owned by inhabitants of the States from Pennsylvania to New Hampshire inclusively, than in the States south of Pennsylvania.

But as to the primitive debt of the United States, that was the case in its original concoction. This arose from two causes;

first, from the war having more constantly been carried on in the Northern quarter, which led to obtaining more men and greater supplies in that quarter, and credit having been for a considerable time the main instrument of the government, a consequent accumulation of debt in that quarter took place. Secondly, from the greater ability of the Northern and Middle States to furnish men, money, and other supplies, and from the greater quantities of men, money, and other supplies which they did furnish. The loan office debt, the army debt, the debt of the five great departments, was contracted in a much larger proportion in the Northern and Middle, than in the Southern States.

It must be confessed, too, that by the attraction of a superior moneyed capital the disparity has increased, but it was great in the beginning.

As to the assumed debt, the proportion in the South was at the first somewhat larger than in the North, and it must be acknowledged that this has since, from the same superiority of moneyed capital in the North, ceased to be the case.

But if the Northern people who were originally greater creditors than the Southern, have become still more so as purchasers, is it any reason that an honorable provision should not be made for their debt? Or is the government to blame for having made it? Did the Northern people take their property by violence from the Southern, or did they purchase and pay for it?

It may be answered that they obtained considerable part of it by speculation, taking advantage of superior opportunities of information.

But admitting this to be true in all the latitude in which it is commonly stated, is a government to bend the general maxims of policy and to mould its measures according to the accidental course of private speculations? Is it to do this, or omit that, in cases of great national importance, because one set of individuals may gain, another lose, from unequal opportunities of information, from unequal degrees of resource, craft, confidence, or enterprise?

Moreover there is much exaggeration in stating the manner

of the alienation of the debt. The principal speculations in State debt, whatever may be pretended, certainly began after the promulgation of the plan for assuming by the report of the Secretary of the Treasury to the House of Representatives. The resources of individuals in this country are too limited to have admitted of much progress in purchases before the knowledge of that plan was diffused throughout the country. After that, purchasers and sellers were upon equal ground. If the purchasers speculated upon the sellers, in many instances the sellers speculated upon the purchasers. Each made his calculation of chances, and founded upon it an exchange of money for certificates. It has turned out generally that the buyer had the best of the bargain, but the seller got the value of his commodity according to his estimate of it, and probably in a great number of instances more. This shall be explained.

It happened that Mr. Madison and some other distinguished characters of the South started in opposition to the assumption. The high opinion entertained of them, made it be taken for granted in that quarter, that the opposition would be successful. The securities quickly rose by means of purchases beyond their former prices. It was imagined that they would soon return to their old station by a rejection of the proposition for assuming. And the certificate-holders were eager to part with them at their current prices, calculating on a loss to the purchasers from their future fall. This representation is not conjectural; it is founded on information from respectable and intelligent Southern characters, and may be ascertained by inquiry.

Hence it happened that the inhabitants of the Southern States sustained a considerable loss by the opposition to the assumption from Southern gentlemen, and their too great confidence in the efficacy of that opposition.

Further, a great part of the debt which has been purchased by Northern and Southern citizens, has been at higher prices—in numerous instances beyond the true value. In the late delirium of speculation, large sums were purchased at 25 per cent. above par and upwards.

The Southern people, upon the whole, have not parted with their property for nothing. They parted with it voluntarily, in most cases, upon fair terms, without surprise or deception—in many cases for more than its value. 'Tis their own fault if the purchase money has not been beneficial to them; and the presumption is, it has been so in a material degree.

Let, then, any candid and upright mind, weighing all the circumstances, pronounce whether there be any real hardship in the inhabitants of the South being required to contribute their proportion to a provision for the debt as it now exists? whether, if at liberty, they could honestly dispute the doing of it? or whether they can even, in candor and good faith, complain of being obliged to do it?

If they can, it is time to unlearn all the ancient notions of justice and morality, and to adopt a new system of ethics.

OBJECTION 21.—That the antifederal champions are now strengthened in argument by the fulfilment of their predictions, which has been brought about by the monarchical federalists themselves, who, having been for the new government merely as a stepping-stone to monarchy, have themselves adopted the very constructions of the Constitution, of which, when advocating the acceptance before the tribunal of the people, they declared it insusceptible; whilst the republican federalists, who espoused the same government for its intrinsic merits, are disarmed of their weapons, that which they denied as prophecy being now become true history. Who, therefore, can be sure, they ask, that these things may not proselyte the small number which was wanting to place the majority on the other side? And this, they add, is the event at which they tremble.

ANSWER.—All that can be said in answer to this, has been already said. It is much to be wished that the true state of the case may not have been, that the antifederal champions have been encouraged in their activity by the countenance which has been given to their principles by certain federalists who, in an envious and ambitious struggle for power, influence, and pre-eminence, have embraced as auxiliaries the numerous party

originally disaffected to the government, in the hope that these, united with the factious and feeble-minded federalists whom they can detach, will give them the predominancy. This would be nothing more than the old story of personal and party emulation.

The antifederal champions alluded to may be taught to abate their exultation, by being told that the great body of the federalists, or rather the great body of the people, are of opinion, that none of their predictions have been fulfilled; that the beneficial effects of the government have exceeded expectation, and are witnessed by the general prosperity of the nation.

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## HAMILTON TO SHORT.

TREASURY DEPARTMENT, August 16th, 1792.

SIR:

You will herewith receive a triplicate of my letter to you of the 25th ultimo, and a duplicate of one of the 4th instant.

If the destination of the moneys arising from the last loan, as mentioned in my former letter of the said 4th instant, has not already put it out of your power, it would be my wish that you reserve a sufficient sum for the purpose of discharging the debt due to the foreign officers. The sum due, including arrears of interest, down to the 31st of December, 1791, was 220,646 $\frac{81}{100}$ dollars; to which will be to be added the further interest to the time of payment.

I shall shortly suggest to you the particular mode to be pursued in paying this debt.

WASHINGTON TO HAMILTON.

MOUNT VERNON, 22d August, 1792.

SIR:

This will merely inform you that your letter of the 10th, with its inclosure, and that of the 11th instant, have been duly received; and that if the regulations of your department, mentioned in the former, are carried strictly into execution, the most happy consequences, it is to be hoped, will result from them.

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WASHINGTON TO HAMILTON.

(PRIVATE.)

MOUNT VERNON, 26th August, 1792.

MY DEAR SIR:

Your letter of the 18th, including answers to certain objections communicated to you in my letter of the 29th ultimo, came duly to hand; and although I have not as yet, from a variety of causes, been able to give them the attentive reading I mean to bestow, I feel myself much obliged by the trouble you have taken to answer them, as I persuade myself, from the full manner in which you appear to have taken up the subject, that I shall receive both satisfaction and profit from the perusal.

Differences in political opinions are as unavoidable, as, to a certain point, they may perhaps be necessary, but it is exceedingly to be regretted, that subjects cannot be discussed with temper on the one hand, or decisions submitted to without having the motives which led to them, improperly implicated on the other; and this regret borders on chagrin, when we find that

men of abilities, zealous patriots, having the same general objects in view, and the same upright intentions to prosecute them, will not exercise more charity in deciding on the opinions and actions of one another. When matters get to such lengths the natural inference is, that both sides have strained the cords beyond their bearing, and that a middle course would be found the best, until experience shall have decided on the right way, or (which is not to be expected because it is denied to mortals) there shall be some infallible rule by which we could forejudge events. Having premised these things, I would fain hope that liberal allowances will be made for the political opinions of each other; and instead of those wounding suspicions and irritating charges, with which some of our gazettes are so strongly impregnated, and which cannot fail, if persevered in, of pushing matters to extremity, and thereby tearing the machine asunder, that there may be mutual forbearance and temporizing yielding on all sides. Without these I do not see how the reins of government are going to be managed, or how the Union of the States can much longer be preserved.

How unfortunate would it be if a fabric so goodly, erected under so many providential circumstances, and in its first stages having acquired such respectability, should, from diversity of sentiments or internal obstructions to some of the acts of government, (for I cannot prevail upon myself to believe that these measures are as yet the deliberate acts of a determined party,) be brought to the verge of dissolution. Melancholy thought! But at the same time that it shows the consequences of diversified opinions, when pushed with too much tenacity, it exhibits evidence also of the necessity of accommodation, and of the propriety of adopting such healing measures as may restore harmony to the discordant members of the Union, and the governing powers of it.

I do not mean to apply this advice to any measures which are passed, or to any particular character. I have given it in general terms to other officers of the government. My earnest wish is, that balsam may be poured into all the wounds which have been given, to prevent them from gangrening, and from those fatal

consequences which the community may sustain if it is withheld. The friends of the Union must wish this. Those who are not, but wish to see it rent, will be disappointed, and all things I hope will go well.

We have heard, through the medium of Mr. Harrison to Dr. Craik, that you have some thoughts of taking a trip this way. I felt pleasure at hearing it, and hope it is unnecessary to add, that it would be considerably increased by seeing you under this roof, for you may be assured of the sincere and affectionate regard of yours, &c.

P. S. I pray you to note down whatever may occur to you, not only in your own department, but other matters also of general import, that may be fit subjects for the speech at the opening of the ensuing session.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, August 27th, 1792.

SIR:

By the act of the last session, entitled "An act supplementary to the act making provision for the debt of the United States," authority is given to discharge the debts due to foreign officers, out of the moneys which the President is authorized to borrow, by the act making provision for the debt of the United States.

The sum authorized to be borrowed by the last mentioned act, is 12,000,000 of dollars. The whole amount of the foreign debt, exclusive of that due to foreign officers, was 11,710,378 dollars and 62 cents. The difference is 289,621 dollars and 38 cents, which is greater than the sum due to foreign officers, being about 230,000 dollars. This debt being payable in Paris, and bearing an interest of six per cent., it is for the advantage of the United States to discharge it as soon as possible. The last loan

will be a convenient fund for the purpose, and if approved by the President, a part of it will be so applied.

Should it appear to the President advisable to direct this payment, a second question arises, namely: whether it shall be made in assignats, or in a mode which shall exempt the parties from the loss which would attend the depreciation of those securities, without, however, occasioning loss to the United States? The last appears best to accord with the justice and reputation of the government.

With the highest respect and the truest attachment, &c.

P. S. Your letter of the 13th instant, and the contract concerning the New Hampshire light-house were duly received.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, Philadelphia, Aug. 28, 1792.

SIR:

It has been represented to me by the accounting officers of the Treasury, that a regular account of all the moneys which have been received by you from our commissioners in Europe, or which have been paid by them by your direction, would be requisite in the examination and adjustment of the accounts of the said commissioners.

I have therefore to request that you will furnish me with an account comprising those objects, down to the 1st of November, 1792.

As the document called for will be considered as an essential guide in the settlement which is contemplated, I shall make no apology for troubling you on the occasion.

Your account, as secretary to the embassy in France, I understand, has been presented at the Treasury by Mr. Jefferson, terminating on the 24th September, 1789; but none has been rendered since.

WASHINGTON TO HAMILTON.

MOUNT VERNON, 31st Aug. 1792.

SIR:

The inclosed letter was written agreeably to the date, but by an accident was omitted when my other letters were sent to the post-office on Monday last; since which, till yesterday afternoon, I have been absent from home.

On my return, amongst other letters I found the inclosed from the inspector of the fifth survey in the State of North Carolina. The picture drawn by him of the temper of the people in the district intrusted to his inspection, is a very unpleasant and disagreeable one. It is forwarded for your consideration and opinion of the measures necessary to be taken in the premises, particularly whether the Governor of that State ought to be written to on the subject; and in that case, to desire that you would draft a letter proper for the occasion.

Your letter of the 27th instant is also before me; and my opinion on the points therein submitted is, that part of the loan lately obtained in Holland should be applied in discharge of the debt due to the foreign officers, agreeably to the act alluded to in your letter, and because the interest of the United States requires it to be done; and that it ought to be paid in a mode which shall exempt the parties from the loss which would attend the depreciation of assignats, without however occasioning loss to the United States. The former is an act of justice due to the officers, and the latter an act of prudence becoming the government.

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HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, September 1st, 1792.

SIR:

I have the honor to inclose sundry papers which have been handed to me by the Commissioners of the Revenue, respecting

the state of the excise law in the Western Survey of the District of Pennsylvania.

Such persevering and violent opposition to the law gives the business a still more serious aspect than it has hitherto worn, and seems to call for vigorous and decisive measures on the part of the government.

I have directed that the supervisor of the district shall repair forthwith to the survey in question, to ascertain in person the true state of the survey; to collect evidences respecting the violences that have been committed, in order to a prosecution of the offenders; to ascertain particulars as to the meeting which appears to have been held at Pittsburg; to encourage the perseverance of the officers; giving expectations, as far as it can be done with propriety, of indemnification from the government for any losses which they may sustain in consequence of their offices; to endeavor to prevail upon the inhabitants of the county of Allegany, who appear at present the least refractory, to come into an acquiescence of the law; representing to discreet persons the impropriety of government's remaining a passive spectator of the contempt of its laws.

I shall also immediately submit to the Attorney-General, for his opinion, whether an indictable offence has not been committed by the persons who were assembled at Pittsburg, and of what nature is the paper which contains their proceedings, with a view, if judged expedient by you, that it may be brought under the notice of the Circuit Court, which, I understand, is to be held in October at Yorktown.

My present clear conviction is, that it is indispensable, if competent evidence can be obtained, to exert the full force of the law against the offenders, with every circumstance that can manifest the determination of government to enforce its execution; and if the processes of the courts are resisted, as is rather to be expected, to employ those means which in the last resort are put in the power of the Executive. If this is not done, the spirit of disobedience will naturally extend, and the authority of the government will be prostrated. Moderation enough has been shown;

it is time to assume a different tone. The well-disposed part of the community will begin to think the Executive wanting in decision and vigor. I submit these impressions to your consideration, previous to any step which will involve the necessity of ulterior proceedings; and shall hope as speedily as possible to receive your instructions.

With the highest respect and the truest attachment, I have the honor to be, &c.

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WASHINGTON TO HAMILTON.

MOUNT VERNON, 7th Sept. 1792.

SIR:

The last post brought me your letter of the first instant, with the inclosures respecting the disorderly conduct of the inhabitants of the Western Survey of the District of Pennsylvania, in opposing the execution of what is called the Excise Law; and of the insults which have been offered by some of them to the officers who have been appointed to collect the duties on distilled spirits agreeably thereto.

Such conduct in *any* of the citizens of the United States, under *any* circumstances that can well be conceived, would be exceedingly reprehensible; but when it comes from a part of the community for whose protection the money arising from the tax was principally designed, it is truly unaccountable, and the spirit of it much to be regretted.

The preliminary steps taken by you in ordering the supervisor of the district to repair to the survey where these disorders prevail, with a view to ascertain in person, "the true state of the survey; to collect evidence respecting the violences that have been committed, in order to a prosecution of the offenders; to ascertain the particulars as to the meeting which appears to have been held at Pittsburg; to encourage the perseverance of the officers in their duty, and the well-disposed inhabitants in discountenancing such violent proceedings," &c., &c., are prudent

and proper, and I earnestly wish they may have the desired effect. But if, notwithstanding, opposition is still given to the due execution of the law, I have no hesitation in declaring, if the evidence of it is clear and unequivocal, that I shall, however reluctantly I exercise them, exert all the legal powers with which the Executive is invested, to check so daring and unwarrantable a spirit. It is my duty to see the laws executed:—to permit them to be trampled upon with impunity would be repugnant to it; nor can the government longer remain a passive spectator of the contempt with which they are treated. Forbearance under a hope that the inhabitants of that survey would recover from the delirium and folly into which they were plunged, seems to have had no other effect than to increase the disorder.

If it shall be the Attorney-General's opinion, under a full consideration of the case, (adverting, as I presume he will, as well to the laws and Constitution of Pennsylvania, as to those of the United States,) that the meeting which appears to have been held at Pittsburg, was illegal, and the members of it indictable; and it shall further appear to you from such information as you may be able to obtain, and from a comparative view of all circumstances, that it would be proper to bring the matter before the Circuit Court, to be holden at Yorktown in October next, you have all the sanction and authority I can give to do it.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, 8th September, 1792.

SIR:

I have to acknowledge the honor of your letter of the 31st of August.

Letters from the supervisor of North Carolina confirm the representation contained in the letter from the inspector of the 5th survey to you. My letter which accompanies this, suggests the measure which, on mature reflection, has appeared most proper to be taken upon the whole subject of the opposition to

the law. If the idea is approved by you, I believe it will be advisable to transmit a copy of the proclamation to the Governors of each of the States of South Carolina, North Carolina, and Pennsylvania, calling their attention in a proper manner to the state of affairs within their respective governments.

I am taking arrangements to carry into execution the payment of the debt due to foreign officers, agreeably to the authorization in the close of your letter.

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RANDOLPH TO HAMILTON.

PHILADELPHIA, Sept. 8, 1792.

Persuaded as I am that the last effort for the happiness of the United States must perish with the loss of the present government, and that to be unable to execute laws because a few individuals are resolved to obstruct their operations is nothing less than a surrender of it, I went into the consideration of the Carolina and Pittsburg papers with a determination to spare no pains to ascertain the law arising from the facts which they contain.

I pass by the information from Carolina, because it offers no evidence, nor any prospect of evidence, sufficient for the objects of prosecution. That from Pittsburg is of a more serious complexion, and yet not strong enough to warrant a judicial movement in the United States. To assemble, to remonstrate, and to invite others to assemble and remonstrate to the legislature, are among the rights of citizens. I therefore omit special mention of the two first resolutions. The last indicates a hostile temper, as it exiles from the comforts of private friendship and intercourse and marks for contempt the officers of excise. Still, however, when we advert to the strictness with which criminal law is interpreted, and the latitude allowed in drawing a meaning from a libel so as to favor the accused, I must pronounce that the law will not reach the conferees. I am aware that seditious attacks on government will be generally covered by a measured, cau-

tious, and artful language; and it may be said that the public authority will upon my principle be for ever foiled. My answer is, that words which are calculated to withhold the exercise of duties of imperfect obligation only, from men not named, but who may accept in future, will disappoint the expectation of public punishment, and thereby disgrace the United States. My maxim is, to examine well; to forbear a doubtful power, and to enforce one clearly rightful.

Thus, sir, you discover my opinion to be against an attempt to a prosecution *at this moment*, when the malignant spirit has not developed itself in acts so specific, and so manifestly infringing the peace, as obviously to expose the culpable persons to the censures of the law.

Upon the first communication of this matter in your letter, I thought of a proclamation as an eventual substitute, if the law should be found inadequate. It struck me that a proclamation was objectionable, because that it seemed that the Executive ought to consign to the course of law any violations of it, and not to animadvert upon acts to which no law had prescribed a penalty; and because an improper interference of the President might excite an idea of usurpation, and enlist against him even those who execrate the spirit of the Pittsburg proceedings. But, after the anticipation of a part only of the consequences which the silence of government would produce; after recollecting that these obnoxious things have been transacted in the very State which is the temporary residence of the administration; that they will carry with them a kind of eclat, as being done at a spot where the United States are certainly not unpopular; that the western settlers in other States, from a sympathy of situation and the want of intelligence, may imitate the conduct of the Pennsylvania counties unless they will be restrained by a timely admonition; that few of the various oppositions to government have existed which were not capable of being blasted, if encountered before men committed themselves too deeply; and that acquiescence of the President may be imputed to a suspicion of the unconstitutionality, or at least gross inexpediency, of the excise laws—I yield to the necessity of a proclamation. I derive

the President's right to issue it from the duty of seeing the laws executed, and the fitness of preventing the growth of a crime by salutary advice, rather than waiting to press the infliction of punishment.

Under the influence of these sentiments, I have perused your draft of a proclamation, and shall without reserve suggest what I think necessary alterations, though I really wish that I could have more time for a critical scrutiny than has occurred between yesterday and this morning.

1. I should prefer, if it be practicable, in the description of those proceedings which give birth to the proclamation, that some expression be used, which may show that it is not the *whole* of the Pittsburg resolutions which are censured.

2. *Criminality* is too strong for a case, which the laws do not punish.

3. After the word legislative, may it not be well to insert something to this effect? "By whose authority alone the operation of the laws can be suspended."

4. The moderation alluded to on the part of government must be either legislative or executive. If legislative be meant, the subsequent member of the sentence is explicit concerning it. If executive, I know no fact to prove that the President might have been otherwise than moderate. Perhaps, then, it may be better to omit the words, which are liable to misconstruction.

5. I have no hesitation in saying, that the excise law was dictated by reasons of public necessity and policy; and I presume that the President, who has given his sanction to it, will not scruple much on this head; but I should hope that you would remark to him, in order to excite his particular attention, that by such a language he exhibited himself as a peculiar friend to the act.

6. Instead of "maintain," ought not the words of the Constitution to be chosen?

7. Every *necessary* measure to *suppress* a *violent* proceeding would go much farther than the Executive ought, unless the measure be *legal*. The word *necessary*, then, might be as well changed for *legal*, or qualified by saying *legal* and *necessary*.

If "suppress" means something distinct from bringing the offenders to justice, I do not discover what it is. If it means the same thing, it is provided for in the second member of the sentence. "To secure obedience thereto," is, to be sure, a phrase expressive of the final object; but, having some latitude, it may be perverted by its connection with the other words. Might not the sentence read well enough thus: "That every legal measure should be pursued, not only to bring to justice the infractors of the laws, but also to prevent such violent and unwarrantable proceedings."

8. "Seriously" might be changed for something which could not be contrasted with what is not serious. Is not "warn" too nearly synonymous with "admonish" to be coupled with it? Suppose exhort to be substituted, if two verbs necessary.

9. I think this number stood better before the interlineation.

10. For the reasons in No. 7, "for securing obedience thereto" would seem proper to be omitted.

11. The charge to the military would influence the country; nor do I think it sufficient to let it stand upon the word "officers" generally, as the military have no power on the subject; and, where this is the case, the exciting of a suspicion to introduce them, cannot be too sedulously avoided. May it not read thus: "All civil officers, according to the duties of their respective offices, to exert, &c.?"

I submit these observations, which on other occasions would appear to myself too minute, but in that of a *proclamation* are necessary.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, 9th September, 1792.

SIR:

I had the honor of writing to you by the post of Monday last, and then transmitted sundry papers, respecting a meeting at Pittsburg on the 21st of August, and other proceedings of a

disorderly nature in opposition to the laws laying a duty on distilled spirits, and I added my opinion that it was advisable for the government to take measures for suppressing these disorders and enforcing the laws with vigor and decision.

The result of further and mature deliberation is, that it will be expedient for the President to issue a proclamation adverting in general terms to the irregular proceedings, and manifesting an intention to put the laws in force against offenders. The inducements to this measure are:

1. That it is a usual course in like cases, and seems, all circumstances considered, requisite to the justification of the Executive Department. It is now more than fourteen months since the duty in question began to operate. In the four western counties of Pennsylvania, and in a great part of North Carolina, it has never been in any degree submitted to. And the late meeting at Pittsburg, is in substance a repetition of what happened last year in the same scene. The disorders in that quarter acquire additional consequence from their being acted in the State which is the immediate seat of government. Hence the occasion appears to be sufficiently serious and of sufficient importance to call for such a procedure.

2. As an accommodating and temporizing conduct has been hitherto pursued, a proclamation seems to be the natural prelude to a different course of conduct.

3. There is considerable danger that before measures can be matured for making a public impression by the prosecution of offenders, the spirit of opposition may extend and break out in other quarters, and by its extension become much more difficult to be overcome. There is reason to hope that a proclamation will arrest it, and give time for more effectual measures.

4. It may even prevent the necessity of ulterior coercion. The character of the President will naturally induce a conclusion, that he means to treat the matter seriously. This idea will be impressive on the most refractory, it will restrain the timid and wavering, and it will encourage the well disposed. The appearance of the President in the business will awaken the attention of a great number of persons of the last description to the evil

tendency of the conduct reprehended, who have not yet viewed it with due seriousness. And from the co-operation of these circumstances good may reasonably be expected.

In either view, therefore, of the propriety of conduct, or the effects to be hoped for, the measure seems to be an advisable one. I beg leave to add, that in my judgment, it is not only advisable, but necessary. Besides, the state of things in the western part of North Carolina, which is known to you, a letter has just been received from the supervisor of South Carolina, mentioning that a spirit of discontent and opposition had been revived in two of the counties of that State bordering on North Carolina, in which it had been apparently suppressed. This shows the necessity of some immediate step of a general aspect, while things are preparing, if unhappily it should become necessary, to act with decision in the western counties of Pennsylvania, where the government, for several obvious considerations, will be left in condition to do it. Decision successfully exerted in one place, will, it is presumed, be efficacious every where.

The Secretary of War and Attorney-General agree with me in opinion on the expediency of a proclamation. The draft of one now submitted has been framed in concert with the latter, except as to one or two particulars, which are noted in the margin of the rough draft in my handwriting, herewith also transmitted. In respect to these, the objections of that gentleman did not appear to me well founded, and would, I think, unnecessarily diminish the force of the instrument.

With the highest respect and truest attachment, I have the honor to be, &c.

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### JEFFERSON TO WASHINGTON.

MONTICELLO, 9th Sept. 1792.

DEAR SIR:

I received on the 2d instant the letter of August 23d, which you did me the honor to write me; but the immediate return of

our post, contrary to his custom, prevented my answer by that occasion. The proceedings of Spain, mentioned in your letter, are really of a complexion to excite uneasiness; and a suspicion that their friendly overtures about the Mississippi, have been merely to lull us, while they should be strengthening their holds on that river. Mr. Carmichael's silence has been long my astonishment; and however it might be justified, something very different from a new appointment, yet the public interest certainly called for his junction with Mr. Short, as it is possible but that his knowledge of the ground of negotiation, of persons and characters, must be useful and even necessary to the success of the mission. That Spain and Great Britain may understand each other on our frontiers is very possible; for, however opposite their interests or dispositions may be in the affairs of Europe, yet, while these do not call them into opposite action, they may concur as against us. I consider their keeping an agent in the Indian country as a circumstance which requires serious interference on our part; and I submit to your decision, whether it does not furnish a proper occasion to us to send an additional instruction to Messrs. Carmichael and Short to insist on a mutual and formal stipulation to forbear employing agents, or pensioning any persons within each other's limits; and if this be refused, to propose the contrary stipulation, to wit, that each party may freely keep agents within the Indian territories of the other, in which case we might soon sicken them of the license.

I now take the liberty of proceeding to that part of your letter, wherein you notice the internal dissensions which have taken place within our government, and their disagreeable effects on its movements. That such dissensions have taken place is certain; and even among those who are nearest to you in the administration; to no one have they given deeper concern than myself; to no one equal mortification at being myself a part of them. Though I take to myself no more than my share of the general observations of your letter, yet I am so desirous ever that you should know the whole truth, and believe no more than the truth, that I am glad to seize every occasion of developing to you, whatever I do or think relative to the government, and

shall therefore ask permission to be more lengthy now than the occasion particularly calls for, or would otherwise, perhaps, justify.

When I embarked in the government, it was with a determination to intermeddle not at all with the legislature, and as little as possible with my co-departments. The first and only instance of variance from the former part of my resolution, I was duped into by the Secretary of the Treasury, and made a tool for forwarding his schemes, not then sufficiently understood by me; and of all the errors of my political life, this has occasioned me the deepest regret. It has ever been my purpose to explain this to you, when, from being actors on the scene, we shall have become uninterested spectators only. The second part of my resolution has been religiously observed with the War Department; and as to that of the Treasury, has never been farther swerved from, than by the mere enunciation of my sentiments in conversation, and chiefly among those, who, expressing the same sentiments, drew mine from me. If it has been supposed that I have ever intrigued among the members of the legislature to defeat the plans of the Secretary of the Treasury, it is contrary to all truth; as I never had the desire to influence the members, so neither had I any other means than my friendships, which I valued too highly to risk by usurpations on their freedom of judgment, and the conscientious pursuit of their own sense of duty.

That I have utterly, in my private conversations, disapproved of the system of the Secretary of the Treasury, I acknowledge and avow; and this was not merely a speculative difference. His system flowed from principles adverse to liberty, and was calculated to undermine and demolish the republic, by creating an influence of his department over the members of the legislature. I saw this influence actually produced, and its first fruits to be the establishment of the great outlines of his project, by the votes of the very persons who, having swallowed his bait, were laying themselves out to profit by his plans; and that, had these persons withdrawn, as those interested in a question ever should, the vote of the disinterested majority was clearly the re-

verse of what they made it. These were no longer the votes, then, of the representatives of the people, but of deserters from the rights and interests of the people; and it was impossible to consider their decisions, which had nothing in view but to enrich themselves, as the measures of the fair majority which ought always to be respected. If what was actually doing begat uneasiness in those who wished for virtuous government, what was further proposed was not less threatening to the friends of the Constitution; for in a report on the subject of manufactures (still to be acted on) it was expressly assumed that the general government has a right to exercise all powers which may be for the *general welfare;* that is to say, all the legitimate powers of government; since no government has a legitimate right to do what is not for the welfare of the governed. There was indeed a sham limitation of the universality of this power, *to cases where money is to be employed;*—but about what is it, that money cannot be employed? Thus the object of these plans taken together, is to draw all the powers of government into the hands of the general legislature; to establish means for corrupting a sufficient corps in that legislature to divide the honest votes, and preponderate by their own the scale which suits, and to have that corps under the command of the Secretary of the Treasury, for the purpose of subverting, step by step, the principles of the Constitution, which he has so often declared to be a thing of nothing, which must be changed. Such views might have justified something more than mere expressions of dissent, beyond which, nevertheless, I never went. Has abstinence from the department committed to me, been equally observed by him? to say nothing of other interferences equally known, in the case of the two nations with which we have the most intimate connections, France and England. My system was, to give some satisfactory distinctions to the former, of little cost to us, in return for the solid advantages yielded us by them; and to have met the English with some restrictions which might induce them to abate their severities against our commerce. I have always supposed this coincided with your sentiments. Yet the Secretary of the Treasury, by his cabals with members of the legislature, and by high-toned

declamations on other occasions, has forced down his own system, which was exactly the reverse. He undertook, of his own authority, the conferences with the ministers of these two nations; and was on every consultation provided with some report of a conversation with the one or the other of them, adapted to his views. These views, thus made to prevail, their execution fell of course to me; and I can safely appeal to you, who have seen all my letters and proceedings, whether I have not carried them into execution, as sincerely as if they had been my own; though I ever considered them as inconsistent with the honor and interest of our country. That they have been inconsistent with our interest, is but too fatally proved by the stab to our navigation given by the French; so that if the question be, By whose fault is it that Col. Hamilton and myself have not drawn together? the answer will depend on that to two other questions—Whose principles of administration best justify, by their purity, conscientious adherence? and, Which of us has, notwithstanding, stepped farthest into the control of the department of the other?

To this justification of opinions, expressed in the way of conversation against the views of Colonel Hamilton, I beg leave to add some notice of his late charges against me in Fenno's Gazette, for neither the style, matter, nor venom of the pieces alluded to, can leave a doubt of their author. Spelling my name and character at full length to the public, while he conceals his own under the signature of "An American," he charges me, 1st, with having written letters from Europe to my friends, to oppose the present Constitution while depending; 2d, with a desire of not paying the public debt; 3d, with setting up a paper to decry and slander the government. 1st. The first charge is most false. No man in the United States, I suppose, approved of every tittle in the Constitution: no one, I believe, approved of more of it than I did; and more of it was certainly disapproved by my accuser, than by me, and of its parts most vitally republican. Of this the few letters I wrote on the subject (not half a dozen I believe), will be a proof; and for my own satisfaction and justification, I must tax you with the reading of them, when I return to where they are. You will then see that my objection

to the Constitution was, that it wanted a bill of rights;—securing freedom of religion,—freedom of the press,—freedom from standing armies,—trial by jury,—and a constant Habeas Corpus Act. Colonel Hamilton's was, that it wanted a king and house of lords. The sense of America has approved my objection, and added the bill of rights, not the king and lords. I also thought a longer term of service, insusceptible of renewal, would have made a President more independent. My country has thought otherwise, and I have acquiesced implicitly. He wished the general government should have power to make laws, binding the States in all cases whatsoever—our country has thought otherwise: has he acquiesced?

Notwithstanding my wish for a bill of rights, my letters strongly urged the adoption of the Constitution by nine States at least, to secure the good it contained. I at first thought that the best method of securing the bill of rights would be for four States to hold off till such a bill should be agreed to. But the moment I saw Mr. Hancock's proposition to pass the Constitution as it stood, and give perpetual instructions to the representatives of every State, to insist on a bill of rights, I acknowledged the superiority of his plan, and advocated universal adoption.

2d. The second charge is equally untrue. My whole correspondence while in France, and every word, letter, and act on the subject since my return, prove that no man is more ardently intent to see the public debt soon and sacredly paid off than I am. This exactly makes the difference between Colonel Hamilton's views and mine, that I would wish the debt paid to-morrow; he wishes it never to be paid, but always to be a thing wherewith to corrupt and manage the legislature.

3d. I have never inquired what number of sons, relations and friends of senators, representatives, printers, or other useful partisans Colonel Hamilton has provided for among the hundred clerks of his department, the thousand excise men, custom-house officers, loan officers, &c., &c., &c., appointed by him, or at his nod, and spread over the Union; nor could have ever imagined that the man who has the shuffling of millions backwards and forwards, from paper into money, and money into paper, from

Europe to America, and America to Europe—the dealing out of treasury secrets among his friends, in what time and measure he pleases, and who never slips an occasion of making friends with his means:—that such an one, I say, would have brought forward a charge against me for having appointed the poet Freneau translating clerk to my office, with a salary of $250 a year. That fact stands thus. While the government was at New-York, I was appealed to on behalf of Freneau, to know if there was any place within my department, to which he could be appointed. I answered there were but four clerkships, all of which I found full, and continued without any change. When we removed to Philadelphia, Mr. Pintard, the translating clerk, did not choose to remove with us; his office then became vacant. I was again applied to there, for Freneau, and had no hesitation to promise the clerkship for him. I cannot recollect whether it was at the same time or afterwards that I was told he had a thought of setting up a newspaper there; but whether then or afterwards I considered it a circumstance of some value, as it might enable me to do, what I had long wished to have done; that is, to have the material parts of the Leyden Gazette brought under your eye and that of the public, in order to possess yourself and them of a juster view of the affairs of Europe, than could be obtained from any other public source. This I had ineffectually attempted through the press of Mr. Fenno while in New-York, selecting and translating passages, myself at first, then having it done by Mr. Pintard, the translating clerk. But they found their way too slowly into Mr. Fenno's papers. Mr. Bache essayed it for me in Philadelphia; but his being a daily paper, did not circulate sufficiently in the other States. He even tried, at my request, the plan of a weekly paper of recapitulation, from his daily paper, in hopes that that might go into the other States; but in this too, we failed. Freneau as translating clerk, and the printer of a periodical paper, likely to circulate through the States, (uniting in one person the parts of Pintard and Fenno,) revived my hopes that the thing could at length be effected. On the establishment of his paper, therefore, I furnished him with the Leyden Gazettes, with an expression of my

wish that he would always translate and publish the material intelligence they contained; and I have continued to furnish them from time to time, as regularly as I received them. But as to any other direction or indication of my wish, how his press should be conducted, what sort of intelligence he should give, what essays encourage, I can protest in the presence of heaven, that I never did, by myself or any other, directly or indirectly, say a syllable, nor attempt any kind of influence. I can further protest in the same awful presence, that I never did, by myself or any other, directly or indirectly, write, dictate, or procure any one sentiment or sentence to be inserted *in his, or any other gazette*, to which my name was not affixed, or that of my office.

I surely need not except here a thing so foreign to the present subject, as a little paragraph about our Algerine captives, which I put once into Fenno's paper. Freneau's proposition to publish a paper having been about the time that the writings of Publicola and the discourses on Davila had a good deal excited the public attention, I took for granted, from Freneau's character, which had been marked as that of a good Whig, that he would give free place to pieces written against the aristocratical and monarchical principles these papers had inculcated.

This having been in my mind, it is likely enough I may have expressed it in conversation with others, though I do not recollect that I did; to Freneau I think I could not, because I had still seen him but once, and that was at a public table, at breakfast, at Mrs. Ellsworth's, as I passed through New-York, the last year; and I can safely declare that my expectations looked only to the chastisement of the aristocratical and monarchical writers, and not to any criticisms on the proceedings of the government. Col. Hamilton can see no motive for any appointment but that of making a convenient partisan; but you, sir, who have received from me recommendations of a Rittenhouse, Barlow, Paine, will believe that talents and science are sufficient motives with me in appointments to which they are fitted; and that Freneau, as a man of genius, might find a preference in my eye to be a translating clerk, and make good title moreover to the little aids I could give him as the editor of a gazette, by procuring subscrip-

tions to his paper, as I did—some before it appeared; and as I have with pleasure done for the labors of other men of genius. I hold it to be one of the distinguishing excellences of elective over hereditary successions, that the talents which nature has provided in sufficient proportion should be selected by the society for the government of their affairs, rather than that this should be transmitted through the loins of knaves and fools, passing from the debauchees of the table to those of the bed. Col. Hamilton, alias "Plain Facts," says that Freneau's salary began before he resided in Philadelphia. I do not know what quibble he may have in reserve on the word "residence;" he may mean to include under that idea the removal of his family, for I believe he removed himself before his family did to Philadelphia; but no act of mine gave commencement to his salary before he so far took up his abode in Philadelphia as to be sufficiently in readiness for the duties of the office. As to the merits or demerits of his paper, they certainly concern me not. He and Fenno are rivals for the public favor. The one courts them by flattery, the other by censure; and I believe it will be admitted that the one has been as servile as the other severe. But is not the dignity and even decency of government committed, when one of its principal ministers enlists himself as an anonymous writer, or paragraphist, for either the one or the other of them? No government ought to be without censors; and where the press is free, no one ever will. If virtuous, it need not fear the fair operation of attack and defence: nature has given to man no other means of sifting out the truth either in religion, law, or politics. I think it as honorable to the government neither to know nor notice its sycophants or censors, as it would be undignified and criminal to pamper the former and persecute the latter. So much for the past: a word now of the future.

When I came into this office, it was with a resolution to retire from it as soon as I could with decency. It pretty early appeared to me that the proper moment would be, at the first of those epochs, at which the Constitution seems to have contemplated a periodical change or renewal of the public servants. In this I was confirmed by your resolution respecting the same period;

from which, however, I am happy in hoping you have departed. I look to that period with the longing of a wave-worn mariner, who has at length the land in view; and shall count the days and hours which still lie between me and it. In the mean while, my main object will be to wind up the business of my office, avoiding as much as possible all new enterprise. With the affairs of the legislature, as I never did intermeddle, so I certainly shall not now begin. I am more desirous to predispose every thing for the repose to which I am withdrawing, than expose it to be disturbed by newspaper contests. If these, however, cannot be avoided altogether, yet a regard for your quiet will be a sufficient motive for deferring it till I become merely a private citizen, when the propriety or impropriety of what I may say or do may fall on myself alone. I may then, too, avoid the charge of misapplying that time which, now belonging to those who employ me, should be wholly devoted to their service, if my own justification, or the interests of the public, shall require it. I reserve to myself the right of then appealing to my country, subscribing my name to whatever I write, and using with freedom and truth the facts and names necessary to place the cause in its just form before that tribunal. To a thorough disregard of the honors and emoluments of office, I join as great a value for the esteem of my countrymen; and, conscious of having merited it by an integrity which cannot be reproached, and by an enthusiastic devotion to their rights and liberty, I will not suffer my retirement to be clouded by the slanders of a man, whose history, from the moment at which history can stoop to notice him, is a tissue of machinations against the liberty of the country which has not only received and given him bread, but heaped its honors on his head. Still, however, I repeat the hope that it will not be necessary to make such an appeal. Though little known to the people of America, I believe that, as far as I am known, it is not as an enemy to the republic, nor an intriguer against it, nor a waster of its revenue, nor prostitutor of it to the purposes of corruption, as the American represents me; and I confide that yourself are satisfied that, as to dissensions in the newspapers, not a syllable of them has ever proceeded from me;

and that no cabals or intrigues of mine have produced those in the legislature; and I hope I may promise both to you and myself, that none will receive aliment from me during the short space I have to remain in office; which will find ample employment in closing the present business of the department.

Observing that letters written at Mount Vernon on the Monday, and arriving at Richmond on the Wednesday, reach me on Saturday, I have now the honor to mention that the 22d inst. will be the last of our post days that I shall be here, and consequently that no letter from you after the 17th will find me here. Soon after that, I shall have the honor of receiving at Mount Vernon your orders for Philadelphia, and of there also delivering you the little matter which occurs to me as proper for the opening of Congress, exclusive of what has been recommended in former speeches, and not yet acted on.

In the mean time, and ever, I am, with great and sincere affection and respect, dear sir, your most obedient and most humble servant,

TH. JEFFERSON.

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## HAMILTON TO WASHINGTON.

PHILADELPHIA, September 9th, 1792.

SIR:

I have the pleasure of your private letter of the 26th of August. The feelings and views which are manifested in that letter, are such as I expected would exist. And I most sincerely regret the causes of the uneasy sensations you experience. It is my most anxious wish, as far as may depend upon me, to smooth the path of your administration, and to render it prosperous and happy. And if any prospect shall open of healing or terminating the differences which exist, I shall most cheerfully embrace it; though I consider myself as the deeply injured party. The recommendation of such a spirit is worthy of the moderation and wisdom which dictated it. And if your endeavors should prove

unsuccessful, I do not hesitate to say, that in my opinion the period is not remote, when the public good will require *substitutes* for the *differing members* of your administration. The continuance of a division there must destroy the energy of government, which will be little enough with the strictest union. On my part there will be a most cheerful acquiescence in such a result.

I trust, sir, that the greatest frankness has always marked, and will always mark, every step of my conduct towards you. In this disposition I cannot conceal from you, that I have had some instrumentality of late in the retaliations, which have fallen upon certain public characters, and that I find myself placed in a situation not to be able to recede *for the present.*

I considered myself as compelled to this conduct by reasons public as well as personal, of the most cogent nature. I *know* that I have been an object of uniform opposition from Mr. Jefferson, from the moment of his coming to the city of New-York to enter upon his present office. I *know* from the most authentic sources, that I have been the frequent subject of the most unkind whispers and insinuations from the same quarter. I have long seen a formed party in the legislature under his auspices, bent upon my subversion. I cannot doubt from the evidence I possess, that the *National Gazette* was instituted by him for political purposes, and that one leading object of it has been to render me, and all the measures connected with my department, as odious as possible. Nevertheless, I can truly say, that, except explanations to confidential friends, I never directly or indirectly retaliated or countenanced retaliation till very lately. I can even assure you, that I was instrumental in preventing a very severe and systematic attack upon Mr. Jefferson by an association of two or three individuals, in consequence of the persecution which he brought upon the Vice-President, by his indiscreet and light letter to the printer, transmitting *Paine's* pamphlet.

As long as I saw no danger to the government from the machinations which were going on, I resolved to be a silent sufferer of the injuries which were done me. I determined to avoid giving occasion to any thing, which could manifest to the world

dissensions among the principal characters of the government; a thing which can never happen without weakening its hands, and in some degree throwing a stigma upon it.

But when I no longer doubted that there was a formed party deliberately bent upon the subversion of measures, which in its consequences would subvert the government; when I saw that the undoing of the funding system in particular, (which, whatever may be the original merits of that system, would prostrate the credit and the honor of the nation, and bring the government into contempt with that description of men, who are in every society the only firm supporters of government,) was an avowed object of the party; and that all possible pains were taking to produce that effect, by rendering it odious to the body of the people, I considered it as a duty to endeavor to resist the torrent, and, as an effectual means to this end, to draw aside the veil from the principal actors. To this strong impulse, to this decided conviction, I have yielded. And I think events will prove that I have judged rightly.

Nevertheless, I pledge my honor to you, sir, that if you shall hereafter form a plan to re-unite the members of your administration upon some steady principle of co-operation, I will faithfully concur in executing it during my continuance in office; and I will not directly or indirectly say or do a thing that shall endanger a feud.

I have had it very much at heart to make an excursion to Mount Vernon, by way of the federal city, in the course of this month, and have been more than once on the point of asking your permission for it. But I now despair of being able to effect it. I am, nevertheless, equally obliged by your kind invitation.

The subject mentioned in the postscript of your letter shall, with great pleasure, be carefully attended to.

With the most faithful and affectionate attachment, I have the honor to remain, sir, yours, &c.

ALEXANDER HAMILTON.

## HAMILTON TO WASHINGTON.

PHILADELPHIA, Sept. 11, 1792.

SIR:

Herewith is an official letter, submitting the draft of a Proclamation. I reserve some observations as most proper for a private letter.

In the case of a former proclamation, I observe it was under the seal of the United States, and countersigned by the Secretary of State. If the precedent was now to be formed, I should express a doubt whether it was such an instrument as ought to be under the seal of the United States; and I believe usage, as well in this country under the State governments as in Great Britain, would be found against it; but the practice having been begun, there are many reasons which in this instance recommend an adherence to it, and the form of the attestation is adapted to this idea.

But still, if the Secretary of State should be at so great a distance, or if an uncertainty of his being in the way should involve the probability of considerable delay, it will be well to consider if the precedent ought not to be departed from. In this case, the attestation will be required to be varied, so as to omit from the words "In testimony" to the words "my hand," inclusively, and to substitute the word "Given" to "Done;" and it may be advisable to direct the Attorney-General to countersign it.

Every day's delay will render the act less impressive, and defeat part of its object.

The propriety of issuing the proclamation depends of course upon a resolution to act in conformity to it, and put in force all the powers and means with which the Executive is possessed, as occasion shall require. My own mind is made up fully to this issue, and on this my suggestion of the measure is founded. Your letter by the last post, confirming former intimations, assures me that you view the matter in the same light.

The words in the proclamation, "dictated by weighty reasons

of public exigency and policy," are not essential to the general scope of it. They amount to an *additional commitment* of the President on the question of the merits of the law, and will require to be well considered.

That the proclamation, both as to *manner* and *matter*, will be criticised, cannot be matter of surprise, if it should happen, to any one who is aware of the lengths to which a certain party is prepared to go. It ought to be anticipated as probable.

In a step so delicate and so full of responsibility, I thought it my duty to make these observations; though I was sure they would of themselves occur.

It is satisfactory to know that a jury in Chester county convicted a person who was guilty of assaulting an officer of inspection. On being interrogated, they answered that they had found him guilty upon the count in the indictment which charged him with assaulting the officer in the execution of his duty; that the law was a constitutional act of government, and was not to be resisted by violence. I have directed Mr. Coxe to collect and publish the particulars. The symptom is a good one.

With the most faithful and affectionate attachment, &c.

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## HAMILTON TO SHORT.

TREASURY DEPARTMENT, Philadelphia, Sept. 13, 1792.

SIR:

Having been authorized by the President to take arrangements for paying off the debt due to foreign officers, the interest of which is payable at the house of Mr. Grand, banker, at Paris; and having concluded to commit to Gouverneur Morris, Esquire, being on the spot, the management of the detail as to the payment of interest (that of the principal being to be made here), I am to request that you will instruct our commissioners in Holland to pay to the order of Mr. Morris the sum of one hundred and five thousand guilders, to be applied to that purpose, and

will cause him to be immediately notified of its having been done. A copy of a letter of instructions to Mr. Morris is inclosed for your information.

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HAMILTON TO MORRIS.

TREASURY DEPARTMENT, September 13th, 1792.

SIR:

The legislature, at their last session, having made provision for the paying off the debt due to foreign officers, the interest of which is payable at the house of Mr. Grand, banker, at Paris; and the President having authorized me to carry that provision into effect; I have concluded to commit such part of the business as is to be transacted at Paris, to your management, not doubting of the cheerfulness with which you will render this service to the public and to my particular department.

The object not regarding your diplomatic mission, and Mr. Jefferson being absent from the seat of government, I open without scruple a direct communication with you on the subject.

By the tenor of the certificates which were issued, the stipulation to pay at Paris is confined to the interest. The principal is, of course, payable in the United States.

To enable you to make the payment of this interest, Mr. Short is directed to subject to your order, in the hands of our commissioners in Holland, the sum of one hundred and five thousand guilders.

Inclosed is a list showing the names of the persons to be paid, and the amount of principal and interest due to each; computing interest from the 1st day of January, 1789, up to the last of the present year.

The reason of beginning at the 1st of January, 1789, is, that Congress placed a fund in the disposition of their then minister plenipotentiary to make payments up to that time; and though an account of the application of that sum has not been ren-

dered, it is understood that the payment provided for was made.

By the list referred to, you will find that the sum directed to be placed at your order is adequate to the object.

The instruction of the President to me is, to cause the payment to be made in "a mode which will exempt the parties from the loss attendant on the depreciation of the assignats, and, at the same time, occasion no loss to the United States."

The line of conduct which has appeared to me proper to fulfil the spirit of this instruction is, to give to each creditor his option either to receive bills on Amsterdam, dollar for dollar, according to the intrinsic par of the metals at Paris and Amsterdam, or to receive an equivalent in assignats according to the current rate of exchange between Paris and Holland at the time.

To exemplify what is meant by an equivalent, suppose the following data:

1. That two and a half guilders are equal to a dollar, according to the intrinsic par of the metals at Paris and Amsterdam.

2. That the current rate of exchange between the two places is 20 per cent. against Paris; that is, 100 guilders at Paris will bring only 80 at Amsterdam.

3. That the sum to be paid for principal and interest is 100 dollars.

The computation to ascertain the equivalent will then stand thus:

If 80 be equal to 100, so will 100 be equal to 125. $125 \times 2\frac{1}{2} = 312\frac{1}{2}$ guilders; which being converted into livres, at par, will be to be paid in assignats, at their nominal value, *livre for livre.*

I have made an arrangement to begin the discharge of the principal here at any time after the 15th of October next, upon demand, and the production of the certificate by the party, or his legal representative, or attorney duly constituted and authorized. Notice will be given, that after the 1st of December next, interest will cease as to all those who shall not have made application for their principal by that day.

I request that you will also cause some proper notification of this arrangement to be given in France.

As the certificates will be required to be produced here, the payment of interest at Paris must be made without the production of them. Especial care must, of course, be taken to ascertain that the payments are made to the identical creditors, or their certain attorneys. It will be well that duplicate or triplicate receipts be taken for such payments, in order that one or more sets may be transmitted with the accounts current.

Should there be any who may prefer receiving their whole dues, interest as well as principal, here, they may have the option of doing it; but in this case they must make known their election to you, or to some person whom you shall appoint, and must obtain a certificate from you, or the person appointed by you, of their having made and communicated that election. Should you authorize another person for the purpose, you will please to inform me, without delay, who he is, and send me his signature.

The payments are stipulated to be made at the house of Mr. Grand; and those which have been heretofore made have passed through his hands. The same course will be proper, unless there are good reasons to the contrary. You, who are on the spot, will judge how far any such reasons may have resulted from the tempests which have of late agitated the kingdom, and you will act accordingly. Nobody knows better than you how important it is to make no missteps in money concerns.

With the most respectful consideration, I have the honor to be, &c.

P. S. Herewith you will also find the evidence of a claim which has been lodged at the Treasury on behalf of Mr. Claviere, that what is right in the matter may be done. A copy of an advertisement from the Treasurer, of the seventeenth instant, is also inclosed.

PROCLAMATION.

Sept. 15th, 1792.

Whereas certain violent and unwarrantable proceedings have lately taken place, tending to obstruct the operation of the laws of the United States for raising revenue upon spirits distilled within the same, enacted pursuant to express authority delegated in the Constitution of the United States, which proceedings are subversive of good order, contrary to the duty that every citizen owes to his country and to the laws, and of a nature dangerous to the very being of government;

And whereas such proceedings are the more unwarrantable, by reason of the moderation which has been heretofore shown on the part of the government, and of the disposition manifested by the legislature (who alone have authority to suspend the operation of laws) to obviate causes of objection and render the laws as acceptable as possible; and whereas it is the particular duty of the Executive "to take care that the laws be faithfully executed;" and not only that duty, but the permanent interest and happiness of the people, require, that every legal and necessary step should be pursued, as well to prevent such violent and unwarrantable proceedings as to bring to justice the infractors of the laws, and secure obebience thereto;

Now, therefore, I, George Washington, President of the United States, do by these presents most earnestly admonish and exhort all persons whom it may concern to refrain and desist from all unlawful combinations and proceedings whatsoever, having for object or tending to obstruct the operation of the laws aforesaid; inasmuch as all lawful ways and means will be shortly put in execution for bringing to justice the infractors thereof, and securing obedience thereto.

And I do moreover charge and require all courts, magistrates and officers whom it may concern, according to the duties of their several offices, to exert the powers in them respectively vested by law for the purposes aforesaid; hereby also enjoining and requiring all persons whomsoever, as they tender the wel-

fare of their country, the just and due authority of government, and the preservation of the public peace, to be aiding and assisting therein according to law.

In testimony whereof I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand. Done this 15th day of September, in the year of our Lord 1792, and of the Independence of the United States the seventeenth.

GEORGE WASHINGTON.

By the President.

TH. JEFFERSON.

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### WASHINGTON TO HAMILTON.

MOUNT VERNON, September 16, 1792.

DEAR SIR:

Your private letter of the 11th, accompanying an official one of the 9th, came safe, as did your other private letter of the 9th; and I feel myself obliged by the observations contained in the first respecting the proclamation.

As the former proclamations on similar occasions have been countersigned by the Secretary of State, I have, for that reason, and for another which has some weight in my mind, thought it best not to depart in this instance from the precedent which has been set; and, therefore, as it cannot, unless unforeseen delays happen, be withheld from you more than six days longer than if it had been returned by this day's post, I despatched by express the proclamation to Mr. Jefferson, for the purpose above mentioned.

I have no doubt that the proclamation will undergo many strictures; and as the effect proposed may not be answered by it, it will be necessary to look forward in time to ulterior arrangements. And here not only the Constitution and laws must strictly govern, but the employing the regular troops be avoided, if it be possible to effect order without their aid; otherwise there

would be a cry at once, "The cat is let out; we now see for what purpose an army was raised." Yet, if no other means will effectually answer, and the Constitution and laws will authorize these, they must be used as a dernier resort.

If you remain in opinion that it would be advisable for the President to transmit the proclamation to the Governors of North and South Carolina, and to the Governor of Pennsylvania, I pray you to draft such letters to them, to be forwarded from hence (with proclamations, which must also be sent to me), as you may think best calculated to produce the end proposed.

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WASHINGTON TO HAMILTON.

MOUNT VERNON, Sept. 17th, 1792.

SIR:

Your letters of the 8th and 9th inst. are received. The latter came to me on Saturday morning, by express, from the post-office in Alexandria. I gave the proclamation my signature, and forwarded it in the afternoon of the same day, by a special messenger, to the Secretary of State, for his countersign. If no unforeseen delay happens, the return of it may be in time for *Friday's* post, so as to be with you the Tuesday following.

It is much to be regretted that occurrences of a nature so repugnant to order and good government should not only afford the occasion, but render such an interference of the Executive indispensably necessary. When these happen, and lenient and temporizing means have been used, and serve only to increase the disorder, longer forbearance would become unjustifiable remissness, and a neglect of that duty which is enjoined on the President. I can have no hesitation, therefore, under this view of the case, to adopt such legal measures to check the disorderly opposition which is given to the execution of the laws laying a duty on distilled spirits, as the Constitution has invested the Executive with; and however painful the measure would be, if

the proclamation should fail to produce the effect desired, ulterior arrangements must be made to support the laws, and to prevent the prostration of government.

Were it not for the peculiar circumstances of my family, I would return to the seat of government immediately; at any rate, I hope to do it in the early part of the next month, or before the middle thereof. With esteem and regard, &c.

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JEFFERSON TO WASHINGTON.

MONTICELLO, 18th September, 1792.

DEAR SIR:

Your express is this moment arrived with the proclamation on the proceedings against the laws for raising a revenue on distilled spirits, and I return it here inclosed with my signature.

I think if instead of the words "to render laws dictated by weighty reasons of public exigency and policy as acceptable as possible," it stood "to render the laws as acceptable as possible," it would be better. I see no other particular expressions which need alteration. I am sincerely sorry to learn that such proceedings have taken place, and I hope the proclamation will lead the persons concerned into a regular line of application, which may end either in an amendment of the law if it needs it, or in their conviction that it is right.

I have the honor to be, &c.

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WASHINGTON TO HAMILTON.

MOUNT VERNON, September 21st, 1792.

SIR:

Under cover of this letter you will receive the proclamation, which is just returned to me with the countersignature of the Sec-

retary of State. I have erased the words "dictated by weighty reasons of public exigency," and scored others with a pencil, which you are hereby authorized to take out or retain as you may think best.

As the instrument is drawn, I could do no otherwise than fill up one of the blanks with the name of the place at which I now am, but, as it is to have a general circulation, you may decide upon the propriety of this, and alter or let it stand, according to your judgment.

With esteem, &c.

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HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, September 22d, 1792.

SIR:

I have been duly honored with your letters of the 7th and 17th instant, and perceive with much pleasure a confirmation of the expectation which your former communications had given, that your view of the measures proper to be pursued respecting the proceedings therein referred to, would correspond with the impressions entertained here.

I flatter myself that the proclamation will answer a very valuable purpose; but every thing, which the law and prudence will warrant, will be put in train as circumstances shall indicate, for such eventual measures as may be found necessary. I do not however despair that, with a proper countenance, the ordinary course of legal coercion will be found adequate.

The inclosed copy of a letter from the Inspector of Kentucky to the Supervisor of Virginia, of the 12th of July last, and the copy of a letter from one of his collectors to him of the 1st of June, contain interesting, and, comparatively, not discouraging matter respecting the state of things in that survey.

The Supervisor of Virginia, in a letter to the Commissioner of the Revenue of the 10th instant, expresses himself thus—"I can truly say that the excise is now fairly on its legs in this district;

it rests on the good will of the greater part of the people, and our collectors are from no cause indisposed to the service, but the apprehension of too much business for too little compensation." A letter from Mr. Hawkins (Senator) to Mr. Coxe, announces favorable symptoms in the part of North Carolina which is in the vicinity of his residence.

On the whole, I see no cause of apprehension but that the law will finally go into full operation, with as much good will of the people as usually attends revenue laws.

You will be pleased also to find inclosed a letter from the Commissioner of Revenue to me, dated the 12th instant, submitting an arrangement for compensating the officers of inspection for the period antecedent to the commencement of the permanent arrangement which you lately established; and the plan of an act for that purpose, to be passed by the President, if approved by him; together with an estimate of the total expense of the proposed arrangement.

The law has made provision for a retrospective increase of compensation, at the direction of the President; and as the outset of the business will have been of course the most perplexing and troublesome, nothing can be more equitable than such a retrospection, except in those particulars in which the increased compensations would either be inapplicable, or liable to abuse. It will have, besides, the good effect of stimulating the zeal of the officers, by showing a liberal attention to their past services, hitherto defectively requited.

The plan submitted is the result of previous consultation between the Commissioner of the Revenue and myself, and appears to me an eligible medium.

The petition from the keeper of the Rhode Island light-house has been put in a course of inquiry, and the result will be made known.

The light-house in Virginia being nearly finished, a trusty keeper of it will be speedily necessary. A letter from David M. Randolph, Esq., to Governor Lee, which was transmitted by him to me, and is inclosed, recommends for the purpose the name of John Waller Johnson; but I have no other information concern-

ing him. You will probably recollect, sir, a person who, some time since, was recommended by Colonel Parker—a man who, it seems, was very active during the war, and distinguished himself in some water enterprises; but who appeared much addicted to liquor, a fault peculiarly disqualifying in such a station. I regret that I forget his name. I believe he was disabled in one of his arms. No other candidate has been brought forward. A letter has been written to Mr. Newton, mentioning Mr. Johnson to him, and requesting him to communicate his opinion of him to you, and of any other character who might occur.

Pursuant to the authorization in your letter of the 7th instant, measures have been taken for discharging the debts due to foreign officers. Upon a review of the tenor of the certificates in order to this, it appeared that the interest only was payable at Paris, the principal here. Had it been clear that motives of accommodation would render the payment both of principal and interest there desirable, there might have been difficulty in justifying the regularity of the proceeding, and of course hazard of blame, especially if any mistake or accident in the execution had happened. But it is very possible that payment in the United States will be most agreeable to the greatest number. The arrangement of course embraces the payment of interest at Paris, of principal at the Treasury; but with an option to those who choose it, to receive both at the Treasury, as will be more particularly seen by the inclosed copy of an advertisement by the Treasurer.

With the highest respect and truest attachment, &c.

P. S.—I have the pleasure to transmit herewith a letter from Mr. G. Morris, which was handed to me by Mr. R. Morris. The Supervisor has been desired to forward to the Circuit Court at Yorktown such proof as he should be able to collect, addressed to the Attorney-General. It will, I perceive, be satisfactory to that officer to receive your direction to proceed there. His presence is of importance, as well to give weight to what it may be proper to do, as to afford security that nothing which cannot be supported will be attempted. I submit the expediency of a line from you to him.

## WASHINGTON TO GOVERNORS OF PENNSYLVANIA AND NORTH AND SOUTH CAROLINA.

(CIRCULAR.)

Draft by Hamilton.

UNITED STATES, 29th Sept., 1792.

SIR:

Inclosed you will find the copy of a proclamation which I have thought proper to issue, in consequence of certain irregular and refractory proceedings, which have taken place in particular parts of some of the States, contravening the laws therein mentioned.

I feel an entire confidence that the weight and influence of the Executive of * * * *, will be cheerfully exerted in every proper way, to further the objects of this measure, and to promote on every occasion a due obedience to the constitutional laws of the Union.

With respect, I am, sir, &c.

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## HAMILTON TO SHORT.

NEWARK, New Jersey, October 1st, 1792.

SIR:

On my arrival here, upon an excursion of a few days, I find the intelligence of a suspension of the king of France, and of a new revolution in that country. I take it for granted, that, after such an event, no further payments will have been made to France. It is now impossible to calculate any thing concerning the affairs of that country; and, of course, the validity, as well as the usefulness to itself, of future reimbursements, would be questionable. This letter serves for the present barely to convey this idea.

### HAMILTON TO SHORT.

TREASURY DEPARTMENT, Philadelphia, October 16th, 1792.

SIR:

There being a vessel in port ready to sail for Amsterdam, I take the opportunity to inclose you triplicates of my letters of the 13th ultimo, and 1st instant, and to note to you that I have directed the Treasurer to draw upon our Commissioners at Amsterdam for one hundred thousand guilders, in addition to the sums mentioned in my letter of the 25th of July.

This I have done in consequence of a persuasion that the late events in France will have interrupted payments to that country. I shall, however, forbear further drafts, till I receive further advices.

I also inclose a letter to our Minister in France, which I request you to forward to him.

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### HAMILTON TO WASHINGTON.

October 31, 1792.

The Secretary of the Treasury presents his respects to the President of the United States, incloses the arrangement for retrospective compensations to officers of the revenue, which, agreeably to the intimation of the President, has been retained. Mr. Hamilton will wait on the President between twelve and one, to give the explanations desired.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Oct. 31, 1792.

The Secretary of the Treasury has the honor respectfully to communicate to the President an authenticated copy of the Con-

tract for the last loan made in Holland, for three millions of florins, bearing date the 9th of August, 1792, at a rate of four per cent. interest, of which contract a ratification of the President, as heretofore, is required.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, November 5th, 1792.

SIR:

The last letter which I have had the pleasure of receiving from you, is dated the 6th of August. By letters from Mr. Morris to the Secretary of State, down to the 16th of that month, it appeared that he had, on the 6th, ordered a payment to the French Treasury, of one million six hundred and twenty-five thousand B. florins. But nothing is said which can enlighten me as to his opinion whether the last change in the affairs of France, namely the suspension of the king, ought to suspend further payments on account of the United States to the government of that country. Hence, though I entertain a persuasion, as mentioned in my letter of the 18th of October, a fourth copy of which is inclosed, that no further payments after that event will have been deemed proper, and, consequently, that a considerable sum of money will have been left undisposed of in the hands of our commissioners, yet the want of some certain indication on that point is a cause of perplexity to me.

The dispositions heretofore announced, contemplated the payment of interest on the foreign debt to individuals, only up to the end of the present year, out of funds accruing in Europe, and render it possible that all others might be applied in payments to France. Yet, under present circumstances, to add, by remittances from this country, to the considerable funds, which probably are already on hand there unemployed, and a part of which has been so long in that situation, would be too disadvantageous to the United States.

Upon the whole, I elect to forbear till further advices, any

remittances from hence, considering that on any emergency you will be able to procure either a temporary or permanent loan equal to the demand. On the 1st of January, 1793, there will be due in Holland 120,000 florins for interest; on the 1st of February 230,000 for interest and 100,000 for premium, on the 1st of March 125,000 for interest, on the first of June 470,000 for interest, and 100,000 for the first instalment of the 5,000,000 loan.

For facing these engagements it appears advisable that you endeavor to contract a loan for 2,000,000 of florins. In the present state of French affairs it is proper to postpone any further borrowing with a view to reimbursements there.

Should it appear, as I expect from your future advices, that there will remain moneys unapplied and subject to dispositions from hence, I shall take care so to regulate the drafts which may be made as to leave at your disposal at least a sufficient sum for paying the interest in January and February, so as to afford time for such further operations as may be requisite.

I am now anxious, as soon as possible, to adopt a regular plan for paying the interest on our foreign debt by remittances from this country. On full reflection I have concluded that the doing of it by means of bills of exchange is preferable to any other mode. But for this purpose some auxiliary arrangement is necessary. Bills are not always to be had at the moment they are wanted. If I am to depend wholly on a casual supply I shall often be obliged to force the market or remit specie. To avoid being pressed at any time I have conceived that it would be eligible to adopt the following plan: To stipulate with some competent house for a *contingent* credit, equal to the sums payable for interest at the several periods; that is, the house to be obliged to furnish the sums when due, if required so to do, for a certain term of credit, say six months, upon the conditions of receiving, absolutely, a small premium, whether the money be called for or not, with a certain rate of interest if called for on the sum actually advanced, from the time of its being advanced to the time of its reimbursement.

Suppose the contract were made and the premium stipulated.

one-half per cent., the rate of interest five per cent., the operation of the plan would be as follows: On the first of January next there is a sum of 120,000 florins payable on account of interest. It would be at my option to remit the sum at the period or not. If I remitted it, the contractor would then be entitled only to one-half per cent. on the 120,000 florins. If I remitted no part of it, he would be obliged to advance the money at the time it became due, and would be entitled to one-half per cent. by way of premium, and at the rate of five per cent. per annum on the 120,000 florins from the time it was advanced to the time it was reimbursed, the term of reimbursement not to exceed six months. If I remitted a part, but not the whole, he would be obliged to advance the residue, and would be entitled to one-half per cent. premium on the entire sum, say 120,000 florins, and at the rate of five per cent. per annum, as before, on *the sum actually advanced*, as that should happen to be. And so from period to period through the year.

I have supposed that the rate of premium and interest which have been mentioned would obtain the credit desired. And I will thank you, if it can be done, to effect the arrangement to begin after the 1st of June next. I should not wish it, in the first instance, to extend beyond a year. Offers of a similar credit have been intimated to me from London, but as the payments are to be made from Amsterdam, I deem it preferable to simplify the business by a direct operation.

I shall endeavor to engage the Bank of the United States to undertake the payment of our foreign interest, combining it with a plan for keeping our foreign exchange within certain determinate limits; a measure which will unite a moderate profit to the bank, with the advantage to trade of a steady course of exchange, and to the government of a convenient and economical mode of remitting its foreign interest. But some little time will be requisite to mature men's ideas on the subject.

## SPEECH OF WASHINGTON OF NOVEMBER 6, 1792.

Draft by Hamilton.

It is an abatement of the satisfaction with which I meet you, on the present occasion, that in felicitating you on the continuance of the national prosperity generally, I am not able to add to it information that the Indian hostilities, which have for some time distressed our northwestern frontier, have terminated.

You will doubtless learn with as much concern as I communicate it, that reiterated endeavors to effect a pacification have hitherto issued only in new and outrageous proofs of persevering hostility on the part of the tribes with whom we are in contest. An earnest desire to procure tranquillity to the frontier, to stop the further effusion of blood, to arrest the progress of expense, to promote the prevalent wish of the country for peace, have led to strenuous efforts, through various channels, to effect that desirable end, in which neither my own calculations of the event, nor my scruples which may have occurred concerning the dignity of government, have been permitted to outweigh the important considerations that have been mentioned.

A detail of the measures which have been adopted, will be laid before you, from which I persuade myself it will appear to you, that means as proper and as efficacious as could have been devised, have been employed. The issue indeed of some of them is yet depending, but while a favorable one is not to be despaired of, every antecedent and collateral circumstance discourages an expectation of it.

In the course of these attempts, some valuable citizens have fallen victims to their zeal for the public service. A sanction hitherto respected even among savages, has not been sufficient to protect from slaughter the messengers of peace. It will, I presume, be duly considered whether the occasion does not call for an exercise of liberality towards the families of the deceased.

It must add to your concern to know that in addition to the continuation of hostile appearances among the tribes north of the

Ohio, some threatening symptoms have lately been revived among some of those south of it. According to the last accounts, an attack upon the settlements within the territory of the United States, was meditated on the part of

Further evidence, however, is necessary to ascertain the reality and extent of the evils; and in the mean time defensive precautions only have been permitted.

It is not understood that any breach of treaty or aggression on the part of the United States or citizens is even alleged, as a pretext for the spirit of hostility in this quarter. Other causes for it are indicated, which it would be premature to particularize.

I have reason to believe that every practicable exertion has been made to be prepared for the alternative of a continuance of the war in pursuance of the provisions made by law. A large proportion of the troops authorized to be raised have been recruited, but the number is still incomplete. A particular statement from the proper department on this subject, and in relation to some other points which have been suggested, will afford more precise information as a guide to the legislative deliberations, and among other things will enable Congress to judge whether some additional stimulus to the recruiting service may not be advisable.

In looking forward to the future expense of the operations which may be necessary, I derive consolation from the information I receive, that, as far as the product of the revenues for the present year is known at the Treasury, there is a strong prospect that no additional burdens on the community will be requisite for the supplies of the ensuing year. This, however, will be better ascertained in the course of the present session; and it is proper to add, that the information proceeds upon the supposition of no material extension of the spirit of hostility.

I cannot dismiss the subject of Indian affairs without recalling to your attention the necessity of more adequate provision for giving energy to the laws throughout our interior frontiers, so as effectually to restrain depredations upon the Indians, without which every pacific system must prove abortive; and also for enabling the employment of qualified persons to reside as agents among the Indians, an expedient of material importance in the successful management of Indian affairs.

If some efficacious plan could be devised for carrying on trade with the Indians, upon a scale adequate to their wants, and under regulations calculated to protect them from extortion and imposition, it would prove hereafter a powerful mean of preserving peace and a good understanding with them.

The prosperous state of our revenue has been intimated. This would be still more the case, were it not for the impediments which in some places continue to embarrass the collection of the duties on home-made spirits. These impediments have lessened, and are lessening, as to local extent; and as applied to the community at large, the spirit of acquiescence in the law appears to be progressive.

But symptoms of an increasing opposition having recently manifested themselves in certain quarters, particularly in one where the enjoyment of immediate benefits from the common contributions of the country was to have been expected to fortify the general sense of respect and duty towards the government and its laws and the disposition to share in the public burdens,— I thought a special interposition on my part had become proper and advisable; and under this impression I have issued a proclamation.

Measures have also been begun for the prosecution of offenders; and Congress may be assured that nothing within constitutional and legal limits which may depend on me, shall be wanting to assert and maintain the just authority of the laws. In fulfilling this trust, I shall count entirely upon the full co-operation of the other departments of government, and upon the zealous support of all good citizens.

I cannot forbear to bring again into the view of the legislature the expediency of a revision of the judiciary system. A representation from the judges of the Supreme Court, which will be laid before you, points out some of the inconveniences that are experienced. In the course of the administration of the laws, considerations arise out of the structure of that system which tend to impede their execution. As connected with this subject, some provisions respecting the taking of bail upon processes out of the courts of the United States, and a supplementary definition

of offences against the Constitution and laws, and of punishment for such offences, are presumed to merit particular attention.

The interests of the nation, when well understood, will be found to coincide with their moral duties. Among these, it is an important one to cultivate peace and friendship with our neighbors. To do this, we should make provision for rendering the justice we must sometimes require from them. I recommend therefore to your consideration, whether the laws of the Union should not be extended to restrain our citizens from committing acts of violence within the territories of other nations, which would be punished were they committed within our own. And in general, the maintenance of a friendly intercourse with foreign nations will be presented to your attention by the expiration of the laws for that purpose, which takes place, if not renewed, at the close of the present session.

In execution of the authority given by the legislature, measures have been taken for engaging some artists from abroad to aid in the establishment of our mint; others have been employed at home. Provision has been made of the requisite buildings, and these are now putting into proper condition for the purposes of the establishment. There has been also a small beginning in the coinage of half dollars and cents; the want of small coins in circulation calling the first attention to them.

The regulation of foreign coins, in correspondency with the principles of our national coinage, will, I doubt not, be resumed and completed, being a matter essential to the due operation of the system, and to order in our pecuniary concerns.

It is represented that the regulations contained in the law which establishes the post-office, operate in experiment against the transmission of newspapers to different parts of the country. Should this, upon due inquiry, be found to be the fact, the legislative wisdom will, doubtless, apply a remedy, under a full conviction of the great importance of facilitating the circulation of political intelligence and information.

Information has been received of the adoption of a constitution for the State of Kentucky. An event so interesting to the happiness of the part of the nation to which it relates, cannot but

make a correspondent impression. The communications concerning it will be laid before you.

It is proper likewise to inform you, that, since my last communication on the subject, in further execution of the acts severally making provision for the public debt, and for the reduction thereof, three new loans have been effected, one for 3,000,000 of florins at Antwerp, at four and a half per cent. and per cent. charges, and two others, each for 3,000,000 of florins, at Amsterdam, at four per cent., and per cent. charges. Among the objects to which these funds have been directed to be applied, the payment of the debts due to certain foreign officers, according to the provision made for that purpose during the last session, is included.

*House of Representatives:*

I entertain a strong hope that the state of the national finances is now sufficiently matured to enable you to enter upon systematic and effectual arrangements for the regular redemption and discharge of the public debt, according to the right which has been reserved to the government. No measure can be regarded as more desirable, whether viewed with an eye to its intrinsic importance, or to the general sentiment and wish of the nation.

Provision likewise is requisite for the reimbursement of the loan which has been made of the Bank of the United States, pursuant to section of the act by which it is incorporated. In fulfilling the public stipulations in this particular, a valuable saving may, it is expected, be made.

Appropriations for the service of the ensuing year, and for such extraordinaries as may have occurred, will demand, and I doubt not, will engage your early attention.

*Senate and House of Representatives:*

I content myself with recalling your attention generally, to such objects suggested in my former communications as have not yet been finally acted upon, and as are not previously particularized.

The results of your joint deliberations hitherto, will, I trust,

be productive of solid and durable advantages to our constituents, and which, by conciliating more and more their approbation, may tend to strengthen their attachment to that constitution of government upon which depend, under Divine Providence, their union, safety, and prosperity.

Still further to secure these inestimable ends, there is nothing which can have so powerful a tendency as the careful cultivation of harmony, combined with a due regard to stability in the public councils.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, November 19th, 1792.

SIR:

I have carefully reflected on the application of Mr. Ternant for an additional supply of money for the use of the colony of St. Domingo, on account of the debt due to France, which I regard more and more as presenting a subject extremely delicate and embarrassing.

Two questions arise: first, as to the ability of the United States to furnish the money, which is stated at about 326,000 dollars, in addition to the sum remaining of the 400,000 dollars some time since promised; second, as to the propriety of doing it on political considerations.

With regard to ability, I feel little doubt that it will be in the power of the Treasury to furnish the sum; yet, circumstanced as we are, with the possibility of more extensive demands than at present exist, for exigencies of a very serious nature, I think it would not be desirable to be bound by a positive stipulation for the entire amount.

With regard to the propriety of the measure, on political considerations, more serious difficulties occur.

The late suspension of the king, which is officially communicated, and the subsequent abolition of royalty by the convention, which the newspapers announce with every appear-

ance of authenticity, essentially change, for the moment, the condition of France.

If a restoration of the king should take place, I am of opinion that no payment which might be made in the interval would be deemed regular or obligatory. The admission of it to our credit would consequently be considered as matter of discretion, according to the opinion entertained of its merit and utility. A payment to the newly constituted power, as a reimbursement, in course, or in any manner which would subject it to be used in support of the change, would doubtless be rejected.

An advance, however, to supply the urgent necessities of a part of the French empire, struggling under the misfortune of an insurrection, of the nature of that which has for some time distressed the colony of St. Domingo, and now exposed to the danger of total ruin by famine, is of a different complexion. Succors furnished in such a situation, under due limitations, would be so clearly an act of humanity and friendship, of such evident utility to the French empire, that no future government could refuse to allow a credit for them without a disregard of moderation and equity. But the claim for such credit would not be of a nature to be regularly and of course valid; consequently would be liable to be disputed.

The condition in which the colony has lately placed itself, by espousing the last change which has been made in France, operates as a serious difficulty in the case, and may be made a ground of objection to any aid which may be given them.

There is even a question whether there be now any organ of the French nation which can regularly ask the succor, whether the commission to Mr. Ternant be not virtually superseded.

It is also an objection (in the view of regularity and validity) to the supply asked, that the decree of the National Assembly, on which it is founded, contemplated a negotiation between the executive power in France and our minister there. The channel has not been pursued, and no substitute has been provided. The business wants organization in every sense.

From these premises, I deduce that nothing can be done without risk to the United States; that, therefore, *as little as*

*possible* ought to be done; that whatever may be done, should be constantly restricted to the single idea *of preserving the colony from destruction by famine;* that, in all communications on the subject, care should be taken to put it on this footing, and even to avoid the explicit recognition of any regular authority in any person.

Under these cautions and restrictions (but not otherwise), I beg leave to submit it as my opinion, that succors ought to be granted, notwithstanding the degree of risk which will attend it. That they should be effected by occasional advances, without previous stipulation, and with only a general assurance that the United States, disposed to contribute by friendly offices to the preservation of an important portion of the French empire, and to that of French Algiers, from the calamity of famine, will endeavor, from time to time, as far as circumstances shall permit, to afford means of sustenance.

According to a statement of Mr. De la Forêt, the provisions desired to be shipped in the course of November would amount to 83,000 dollars, including the total supply of fish and oil. Towards this, he computes the application of 50,000 dollars out of the remainder of the 400,000 dollars heretofore promised, which would leave a deficiency of 33,800 dollars. This sum, or in round numbers 40,000 dollars, can be engaged to be furnished; and in December, if no future circumstances forbid, a further sum can be engaged to be supplied, payable at a future short period.

It will be proper, that the most precise measures should be taken to ascertain from time to time the investment of the moneys supplied, in purchasing and forwarding provisions from this country to the colony in question.

It has been heretofore understood that the balance of the sum some time since stipulated was to be furnished, which accordingly has been and is doing.

Engagements for supplies have been entered into, upon the basis of that stipulation, and payments to as great, if not a greater amount, are becoming due, in which the citizens of the United States are materially interested.

The caution which is deemed necessary, has reference not only to the safety of the United States in a pecuniary aspect, but to the consideration of avoiding a dangerous commitment, which may ever prove a source of misunderstanding between this country and the future government of the French nation.

From all that is hitherto known, there is no ground to conclude that the governing power, by the last advices, will be of long duration.

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## HAMILTON TO SHORT.

TREASURY DEPARTMENT, Philadelphia, Nov. 26, 1792.

SIR:

Since my last of the 5th instant, a triplicate of which is here inclosed, I have received yours of the 30th of August last.

I have only time to inform you that I have directed the sum of 1,250,000 florins to be drawn upon our commissioners in Amsterdam immediately; which will leave a sum in their hands sufficient to face the interest and other payments falling due up to the 1st of March next, including the debt due to Spain.

This arrangement is made so as not to affect the sum of 1,625,000 florins, which, pursuant to Mr. Morris's stipulation with the French treasury, was to be paid in France, because it appears from your letter that it was still possible the payment might be concluded. This possibility will therefore govern until I receive further advice on the subject. But should the payment eventually be stopped, I shall also draw for part, if not the whole of the sum, from hence.

### HAMILTON TO WASHINGTON.

Nov. 27, 1792.

The Secretary of the Treasury presents his respects to the President. The execution of the process by the marshal himself is, for many reasons, so important, that it does not appear possible to dispense with it. If there should be any failure in the deputy, it would probably furnish a topic of censure and a source of much embarrassment. The impediment in point of health is to be regretted, but, it would seem, must be surmounted.

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### HAMILTON TO JEFFERSON.

Treasury Department, Dec. 26, 1792.

Sir:

I beg leave to suggest, that it would be useful for the consuls of the United States every where to be possessed of the laws of the United States respecting commerce and navigation; giving it as a standing instruction, to make known, in the best manner possible, in the ports where they reside, those regulations which are necessary to be complied with abroad by merchants, and the owners and masters of ships.

Prohibitions and penalties in some cases exist, as in the 10th and 13th sections of the act concerning the duties on spirits distilled within the United States, an ignorance of which is experienced to be a source of embarrassment, and in some instances of expense and vexation, to foreign merchants and navigators.

It would also be of use in the operations of the Treasury if our consuls in France were directed to transmit, by every opportunity, the state of exchange between their respective places of residence and London and Amsterdam, and the current difference between specie and assignats. This has reference particularly to the execution of the 17th section of the act entitled "An act

for raising a further sum of money for the protection of the frontiers."

I have the honor to be, very respectfully, &c.

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## HAMILTON TO SHORT.

TREASURY DEPARTMENT, Philadelphia, Dec. 31, 1792.

SIR:

Inclosed is a duplicate of my letter of the 26th ultimo, mentioning, among other matters, that Treasury drafts had been directed upon the Commissioners in Amsterdam, to the amount of 1,250,000 guilders.

It will be proper to inform you, that this sum has been reduced to 1,237,500 guilders, to be drawn in lieu of the sum first mentioned; and that a farther sum of 24,750 guilders has since been directed to be drawn.

I have received your letters down to the 9th of October inclusively; but time will not now permit me to enter into any discussion upon the contents.

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## WASHINGTON TO HAMILTON.

PHILADELPHIA, Jan. 1, 1793.

DEAR SIR:

After reading the inclosed letter, return it to me. My sentiments on the *general* principle you are acquainted with. With the one handed under this cover, do as shall seem best to you in the case before us, and let me know the result; or, if you choose it, I am ready to confer further with you on the subject.

I am always your sincere friend, &c.

JEFFERSON TO WASHINGTON.

1793.

The most prominent suspicion excited by the report of the Secretary of the Treasury of January 3, 1793, is, that the funds raised in Europe, and which ought to have been applied to the payment of our debts there, in order to stop interest, have been drawn over to this country and lodged in the bank, to extend the special items and increase the profits of that institution.

To come to the truth of this, it becomes necessary to arrange the articles of this report into two accounts, viz.

1. An account of funds provided *in Europe* for which the Treasury is to be debited, while it is to be credited for the application of these funds to such disbursements as they were by law appropriated to; the balance remaining on hand there must still belong to the same purposes.

*1st Account reversed with the U. S. of America.*

| | | | |
|---|---|---|---|
| By disbursements for the purposes to which the loans were appropriated by law, viz., p. 2, to France . . . | $10,083,116 | | |
| For other foreign loans, . . . | 1,733,189 | | |
| Commission, &c., . . . | 19,172 | | |
| Postage and Advertising, . . . | 613 88 | | |
| Interest to Foreign Officers, . . | 105,000 | | |
| To Spain, . . . . . | 680,000 | | |
| | 12,621.091 | —— | 5,098,920 76 |
| Balance stated to be in the hands of the Commissioners, 407,287,7 | 154,44 | | |
| Deficit not found in their hands, . . | 282,467 | 446,991,26 | |
| | | | 7,545,912 |

*With the U. S. of America.*

| | | |
|---|---|---|
| By dep't of State for Barbary and foreign transn's | $528,746 00 | |
| By paid to T., for St. Domingo, . . . . | 445,263 83 | |
| By paid in purchase of Public Debt, . . | 967,821 65 | |
| | | 7,561,852 15 |
| Bal. remaining in Bank ought to be $1,708,416 72, but to avoid cavil we admit the $191,316 90 rightly drawn from Europe into the hands of the Bank, to pay certain foreign officers in Europe as by contract; then we must credit that sum, . . . . . | | 191,316 00 |
| The balance in Bank then will be, $1,517,099 84 | | |
| | | 3.3 |
| The next possible deduction which could be made from this balance further would be so much of the $967,821 65 paid in purchase of the public debt as exceeds the surpluses of revenue applicable to that purchase, if there has been no surplus at all therefrom . . . . . | | $1,517,199 00 |
| We must deduct the whole, . . . . . | | 967,821 00 |
| Which would leave a balance in the Bank still of . . . | | 549,276 14 |

In the Bank there must have been a balance of $39,278 19 before the last draughts—matters out of question—two further statements are requested.

*Statement.*

| | |
|---|---|
| The Treasury debtor in Europe to nett amount of moneys borrowed in Europe, . . . . . | $7,545,972 00 |
| To loan from Bank in America, . . . . . | 2,000,000 00 |
| To surpluses of revenue applicable to public debt, . . . | |

*3d Statement.*

| | |
|---|---|
| To nett amount of moneys borrowed in Europe, . . . . | 7,545,912 00 |
| To loan from Bank, . . . . . | 2,000,000 00 |
| | 9,545,912 00 |

| | | |
|---|---|---|
| By paiements to France, . . . . . | $10,083,116 09 | |
| for other foreign loans, . . | 2,537,975 00 | |
| | | $5,089,920 76 |
| By balance stated to be in hands of commissioners, | $164,544 00 | |
| Deficit there, consequently supposed to be drawn into bank, . . . . . | 2,282,477 24 | |
| | | $2,446,991 26 |
| | | $7,545,991 25 |
| By subscription in Bank, . . . . . | | $2,000,000 00 |
| By Department of State, . . . . . | $128,766 67 | |
| By paid to St. Domingo, . . . . . | 445,263 83 | |
| By purchases of public debt, . . . . . | 967,821 65 | |
| By purchase of foreign officers, . . . . | 191,316 90 | 1,733,169 05 |
| | | $3,733,169 05 |
| By subscription to Bank, . . . . . | | $2,000,000 00 |
| By paiements to France, . . . | $10,083,116 09 | |
| for other foreign loans, . . . . | 2,537,373 00 | 5,098,620 76 |
| By Department of State, . . . . . | | 128,766 76 |
| By paid to St. Domingo . . . . . | | 445,263 83 |
| By purchases of public debt, . . . . . | | 967,621 65 |
| By certain foreign officers, . . . . . | | 191,316 90 |
| Balance in hand in Europe and America, (besides surplus,) . | | 713,822 19 |
| | | $9,545,712 00 |

2. An account of the funds provided in *America* for the objects which are entered in this report or may be brought forward to support it, which are to be debited to the Treasury, while it is credited for the applications of them to the purposes to which they have been appropriated by law.

The two following accounts are raised on these principles.

To nett amount of moneys borrowed in Amsterdam and Antwerp, 18,678,000 florins, at 99–40, 7,545,912 dollars.

NOTE.—We have here admitted that the whole 2,000,000 dollars subscribed to the bank, might have been paid out of the funds in Europe; whereas, in truth, their subscription being on the 1st January, 1792, there should have been paid on that day the first instalment only of 500,000 dollars, and before any other instalment became due, there was the loan of 2,000,000 from the bank on the same day,

which might have been applied so as to spare the European fund, there would then have remained 1,500,000 more in Europe to pay off the French debt and stop interest, instead of lying dead in the Bank; but waive this because it admits some cavil.

The Treasury for receipts and debts in *America* on account.

| | |
|---|---|
| To deficit in the European fund as per contra, . . . . . | $282,447 24 |
| To loan from the Bank, . . . . . | 2,000,000 00 |
| To surpluses revenue applied to purchase of public debt, (suppose,) | 967,821 65 |
| | $3,250,268 89 |

There being certainly then a balance of 549,278.19 dollars, and probably much more, for 510,000 dollars were made in its favor; why then were they made? But to put these to the account of the United States with the Bank, from which we may see whether the state of the accounts were such as to require this payment.

2. A statement of the surpluses of revenue which actually arose, and might have been applied to the purchase of the public debt; the amount of these surpluses are to be added to our balance against the Bank.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, January 24, 1796.

SIR:

As the law appropriating ten thousand dollars for the purpose of defraying the contingent charges of government, (though in that respect not very precise in its terms,) seems to contemplate the rendering an account from time to time of the disbursement of that sum, I have the honor to inclose three copies of a statement to the end of the year 1792, in order, that if it be judged expedient, one may be sent to each House of Congress.

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## HAMILTON TO SHORT.

TREASURY DEPARTMENT, February 1st, 1793.

SIR:

Since my last letter to you, dated the 31st of December last, of which a duplicate is inclosed, I have received yours of the 27th of October and 2d of November.

It was not intended by mine of the 28th of August, that the account to be rendered by you, should extend to any of the payments made by the Commissioners on account of the debt to France, or the foreign loans, or the bills drawn from hence; but merely to your particular transactions, your salary, &c., or to any moneys which may have been drawn from the Commissioners, and put under your disposition for ulterior expenditure.

I presume a duplicate of the accounts transmitted by you to the Secretary of State, will answer the purpose.

With respectful consideration, I have the honor to be, &c.

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## HAMILTON TO SHORT.

(PRIVATE.)

PHILADELPHIA, February 5th, 1793.

SIR:

The spirit of party has grown to maturity sooner in this country than perhaps was to have been counted upon. You will see a specimen of it in the inclosed speech of Mr. Giles, a member from Virginia. The House of Representatives adopted the resolutions proposed by him, *nemine contradicente*. The object, with a majority, was to confound the attempt, by giving a free course to investigation.

I send you, also, a printed copy of a letter from me to the House of Representatives, of yesterday's date, being the first part of an answer to those resolutions. The statements referred to in it could not yet be printed; but lest the thing should pass the Atlantic, and be made an ill use of, to the prejudice of our country, I send you the antidote, to be employed or not, as you may see occasion.

An investigation intended to prejudice me is begun, with respect to the circumstances attending the last payment on account of the French debt, which, in its progress, may draw your con-

duct into question. I think, however, you need be under no anxiety for the result. Your hesitations, at a certain stage, were so natural, and your reasons so weighty for them, that they will give little handle against you, besides the coincidence in opinion here about the expediency of a suspension of payment. The popular tide in this country is strong in favor of the last revolution in France; and there are many who go, of course, with that tide, and endeavor always to turn it to account. For my own part, I content myself with praying most sincerely that it may issue in the real advantage and happiness of the nation.

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CABINET OPINION.

February 25th, 1793.

The President desires the opinions of the heads of the three Departments and of the Attorney-General on the following questions, to wit:

Mr. Ternant having applied for money equivalent to three millions of livres, to be furnished on account of our debt to France, at the request of the Executive of that country, which sum is to be laid out in provisions within the United States, to be sent to France; shall the money be furnished?

The Secretary of the Treasury stated it as his opinion, that making liberal allowance for the depreciation of assignats (no rule of liquidation having been yet fixed), a sum of about 318,000 dollars may not exceed the arrearages equitably due to France to the end of 1792, and that the whole sum asked for may be furnished within periods capable of answering the purpose of Mr. Ternant's application, without a derangement of the Treasury.

Thereupon the Secretaries of State and War and the Attorney-General are of opinion that the whole sum asked for by Mr. Ternant ought to be furnished: the Secretary of the Treasury is

of opinion that the supply ought not to exceed the above-mentioned sum of 318,000 dollars.

TH. JEFFERSON,
ALEXANDER HAMILTON,
H. KNOX,
EDM. RANDOLPH.

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### CABINET OPINION.

February 25, 1793.

The President having required the attendance of the heads of the three Departments and of the Attorney-General at his house, on Monday, the 25th February, 1793, the following questions were proposed and answers given:

The Governor of Canada having refused to let us obtain provisions from that province, or to pass them along the water communication to the place of treaty with the Indians, and the Indians having refused to let them pass peaceably along what they call the Bloody Path, the Governor of Canada at the same time proposing to furnish the whole provisions necessary—ought the treaty to proceed?

*Answer, unanimously*—It ought to proceed.

Have the Executive, or the Executive and Senate together, authority to relinquish to the Indians the right of soil of any part of the lands north of the Ohio, which has been validly obtained by former treaties?

The Secretary of the Treasury, Secretary of War, and Attorney-General, are of opinion that the Executive and Senate have such authority; provided that no grants or reserves to States be thereby infringed. The Secretary of State is of opinion they have no such authority to relinquish.

Will it be expedient to make such relinquishment, if essential to peace, provided it do not include any lands sold or reserved for special purposes (the reservations for trading places excepted)?

The Secretary of State is of opinion that the Executive and Senate have authority to stipulate with the Indians, and that if essential to peace it will be expedient to stipulate that we will not settle any lands between those already sold or reserved for special purposes and the lines heretofore validly established with the Indians.

Whether the Senate shall be previously consulted on this point?

The opinion unanimously is, that it will be better not to consult them previously.

TH. JEFFERSON,
A. HAMILTON,
HENRY KNOX,
EDMUND RANDOLPH.

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WASHINGTON TO HAMILTON AND KNOX.

February 27, 1793.

SIR:

As the day is near at hand when the President elect is to take the oath of qualification, and no mode is pointed out by the Constitution or by law, I could wish that you, Mr. Jefferson (Gen. Knox or Col. Hamilton), and Mr. Randolph, could meet to-morrow morning, at any place which you may fix between yourselves, and communicate to me the result of your opinions as to time, place, and manner of qualification.

GEORGE WASHINGTON.

P. S. Mr. Jefferson and Mr. Randolph have suggested the idea of meeting at the War Office, at nine o'clock to-morrow morning. If this is convenient and agreeable to you, you will be there accordingly; if otherwise, you will be so good as to let me know.

CABINET OPINION.

Feb. 27, 1793.

If the qualification is to be in private, T. J., A. H., H. K., and E. R. are of opinion that Mr. Cushing should administer the oath to the President at his own house, where such officers, or others, as he may notify, will attend. T. J. and A H. think that it ought to be in private.

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CABINET OPINION.

March 1, 1793.

It is our opinion,

1. That the President ought to take the oath in public.

2. That the time be on Monday next, at twelve o'clock in the forenoon.

3. That the place be the Senate chamber.

4. That the Marshal of the district inform the Vice-President, that the Senate chamber, being the usual place of the President's public acts, is supposed to be the best place for taking the oath, and that it is wished that the chamber be open.

5. That it may be informally notified to the Vice-President, Governor, and Foreign Ministers, that the oath is to be taken at the time and place above mentioned.

6. That Mr. Cushing be requested to attend, and administer the oath.

7. That the President go without form, attended by such gentlemen as he may choose, and return without form, except that he be preceded by the Marshal.

H. KNOX.
EDM. RANDOLPH.

My opinion given yesterday was founded upon prudential considerations of the moment; though I think it right, in the abstract, to give publicity to the act in question. If this is to be

done on the present occasion, I see no objection to the above form. I am not, however, satisfied that prudential considerations are not equally balanced.

A. HAMILTON.

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CABINET OPINION.

March 2, 1793.

The President communicated to the Secretary of State, the Secretary of the Treasury, the Secretary of War, and the Attorney-General of the United States, a letter from William S. Smith, Esq., of the 28th of February past, to the Secretary of the Treasury, with sundry papers—No. 1, 2, and 3 and 4 relating to a negotiation for changing the form of the debt to France; and required their opinion what answer should be returned to the application.

The opinion unanimously is, that the Secretary of the Treasury shall inform Mr. Smith that the government of the United States have made engaged payments to France to the extent which is at present consistent with their arrangements; and do not judge it advisable to take any measures on the subject of his application.

TH. JEFFERSON.
ALEX. HAMILTON.
H. KNOX.
EDM. RANDOLPH.

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CABINET OPINION.

March 10, 1793.

At a meeting of the heads of departments and the Attorney-General at the President's, on the 10th day of March, 1793,

The intelligence from Kentucky and the territory northwest of the Ohio was laid before them; whereupon it was advised,

1. That a proclamation issue against the expeditions under-

stood to be prepared in Kentucky for the invasion of the Spanish dominions.

2. That a representation be made to the Governor of Kentucky, upon the subject of his conduct, and giving information, under proper guards, of the steps which have been taken by government as to the Mississippi.

3. That a representation be also made to Congress; and

4. That General Wayne be instructed to post, if compatible with his other operations, a body of troops at Massae, in order to intercept by force, if necessary, any body of men which may descend the river for the purpose of the invasion aforesaid. From this fourth opinion the Secretary of State dissents.

ALEX. HAMILTON.
EDM. RANDOLPH.
H. KNOX.
WM. BRADFORD.

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### RANDOLPH TO WASHINGTON.

PHILADELPHIA, March 11th, 1793.

SIR:

The minutes which were made yesterday, at the conference in your room, did not permit an insertion of the reasons upon which my dissent from the fourth proposition was founded. As I shall always contend for what I conceive to be the constitutional and legal powers of the government, so I beg leave to request, upon this truly important subject, that you will suffer this letter to be filed away, with the paper containing the opinions.

My reasons against the instruction, advised to be given to General Wayne, to post a body of regular troops at Massac, and by force, if necessary, to prevent the party of Kentucky citizens who are supposed to meditate an invasion of the Spanish dominions, from proceeding, are the following:

1. Those troops were raised, and destined by law, exclusively for other purposes.

2. The law of the land, and not an army, is to be resorted to for the punishment of citizens of the United States who may be charged with crimes. Regular proof, too, ought to precede punishment.

3. The sense of a committee, at least, of the Senate, appears to be the same; because a bill is actually depending before them for giving the power to the President to use military force on such occasions. This would not have been necessary, if the power existed already.

4. The present case is not an invasion from a foreign nation, in the grammatical, legal, or constitutional import.

5. If it were an insurrection, the President is restricted, by law of May 2, 1792, from interposing even with militia, except upon the application of the legislature or executive of Kentucky.

6. The marshals and their deputies have the same power as sheriffs to call out the "*posse comitatus.*"

7. If a combination to obstruct the laws be too powerful, the President cannot draw forth even the militia, but upon a notification from a judge of the Supreme or District Courts.

8. If the blood of the citizens of Kentucky should be shed, under the order now advised, it will, I fear, terminate in a revolt of that country, and a separation from the Union; and,

9. The probability is, that the attempt which was begun is at an end for the present, and it is, at any rate, better to wait and see what power Congress may give, than to hazard so doubtful an one on so critical an occasion.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, Philadelphia, March 15th, 1793.

SIR:

You will find inclosed a duplicate of a letter from me to you, of the 1st of February, and a copy of one from me, of this date, to our bankers at Amsterdam.

I was not insensible to the judicious views which led you to desire that the United States might not place themselves in a situation to be obliged to retrograde with regard to the rate of interest; and I shall be sorry if the arrangements made here have interefered with the execution of them, as appears to be now probable. An expectation of a more favorable state of the market, and a reluctance to incur a further loss of interest on the moneys which remained on hand, of former loans, has led to the course which has been pursued.

The present price of bills enables me to invest moneys for the intended remittance, with a gain of about seven per cent., which will be a partial indemnification for other disadvantages.

The inclosed extract from the minutes of the House of Representatives, will inform you of the result of the affair about which I wrote to you, not long since, by way of England. 'Tis to be lamented that already the spirit of party has made so great a progress in our infant republic; but it is, at the same time, a source of congratulation that it, as yet, has its bounds, and that there are many who will only go a certain length in compliance with its dictates.

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HAMILTON TO MESSRS. W. AND J. WILLINK, N. AND G. VAN STAPHORST AND HUBBARD, BANKERS, AMSTERDAM.

TREASURY DEPARTMENT, Philadelphia, March 15, 1793.

GENTLEMEN:

I received, two days since, the letter which you did me the honor to write me of the 14th of January last, inclosing the copy of one of the same date to Mr. Short.

I regret the state of things as there exhibited; and my regret will be increased, if circumstances shall have rendered it necessary to allow the high rate of five per cent. for the contemplated loan. I hope, nevertheless, a better issue from your zeal and intelligent exertions; and, in time to come, every effort must be made here to avoid a like necessity. If the thing were still in my power, I should decline the loan altogether.

Lest a disappointment should attend the obtaining of a loan, I have taken measures to arrest, in your hands, 495,000 guilders, of the sum which I last advised you would be drawn for. The sale having been made to the Bank of the United States, has left this expedient in my power. I shall, in addition to this, cause to be remitted to you, between this time and the third of next month,—when the British packet sails,—the further sum of 975,000 guilders, in bills upon London and Amsterdam; unless I should, in the mean time, hear of a loan having been undertaken. I cannot doubt that it will be, at all events, in your power to make temporary arrangements to face the exigency, should any delays ensue, which may prevent these means being in measure for the demand.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, March 18, 1793.

The Secretary of the Treasury respectfully makes the following Report to the President of the United States:

The act, entitled "An act making appropriations for the support of government for the year one thousand seven hundred and ninety-three," empowers the President to borrow for the purposes therein specified, any sum or sums, not exceeding in the whole eight hundred thousand dollars, at a rate of interest not exceeding five per centum per annum, and reimbursable at the pleasure of the United States.

In order to enable the President to judge how soon, and to what extent it will be necessary to carry the above mentioned power into execution, the following statements and facts are submitted:—

1st. Statement No. 1, being the copy of one lately reported to the House of Representatives, which shows the probable situation of the public cash, from the last of December, 1792, to the

1st of April, 1793; leaving a balance in the Treasury of 664,180 dollars and 89 cents.

2d. Statement No. 2, showing the probable situation of the account between the United States and their bankers at Amsterdam, on the first of the present month, on the supposition of a full payment of the Spanish debt; which statement is deduced from an account of the bankers, dated the 1st of January, 1793, and exhibits a balance against the United States of 72,265 florins or guilders. Besides this balance, requiring a provision, there will, on the first of June next, be payable at Amsterdam,

| | |
|---|---|
| On account of the principal of the Dutch loans, | 1,000,000 |
| " for interest on do. . . | 470,000 |
| Guilders, | 1,470,000 |

which being added to the above balance of 72,265 guilders, at the rate of $36\frac{4}{7}$ ninetieths per guilder, will be equal to 623,137 dollars and 37 cents.

There are competent powers and instructions in Holland for making a further loan, out of which the payment of the above sum might be effected; but it is problematical whether one can be obtained upon admissible terms, in time to answer the purpose.

That the public credit may not be in jeopardy of suffering a wound, it is necessary to remit the whole, or the greatest part of the requisite sums, without delay. Bills are now purchasing with a view to this object; the rate of exchanges, which is at present more than seven per cent. below par, will afford an indemnification for the suspension of this fund from employment, in case it should turn out in the event that a loan has been procured.

Deducting this sum from the balance, as per Statement No. 1, there would remain only 41,053 dollars and 52 cents; which would be much too small a sum to be in the Treasury, if all the demands for which it is liable, as expressed in the said statement, were likely to fall upon it within the period.

But, 'tis probable some of the calculated disbursements will not take place within the present quarter, particularly a part of the sums due to foreign officers—part of the expenditure for the

War Department—the sum stated for the expenses of the Indian treaty, which, together, may amount to about 300,000 dollars; to this may likewise be added about 150,000 dollars of the interest on the public debt, of which the greatest part will be included in the sum to be paid the 1st of June in Holland, and which is comprehended in the sum stated as necessary to be remitted.

This circumstance will enable the Treasury to be in measure for the payments, which will accrue in the succeeding quarter, on account of the debt due to France, and, together with the current receipts, to keep pace with other demands in the early part of that quarter.

But the aid of a loan, during this second quarter, will probably be indispensable. The suspended disbursements of the first quarter ought to be calculated upon, as falling within the second; and the Treasury ought, at all events, to be prepared for them.

Statement No. 3 shows the probable state of the public cash during the second quarter—that is, from the last of March to the 1st of July, showing a balance against the Treasury of 672,023 dollars and 26 cents. This balance ought to be provided for in due time by a loan. And it will appear, from Statement No. 4, that the same auxiliary will be necessary to the operations of the third quarter of the present year.

In the fourth quarter, the receipts may be expected to be amply sufficient, so as to afford a surplus towards reimbursing the loan of the last year.

It is submitted, as the result of the foregoing data, that immediate measures be taken to engage of the Bank the loan of the 800,000 dollars authorized by the act herein before mentioned.

It will be desirable to have the whole sum immediately passed to the credit of the United States, upon an agreement that none of it *shall be actually called for* till the 1st of June, and that it shall be payable in four equal monthly instalments, each to bear interest from the time stipulated for the payment.

The reason of endeavoring to have the whole sum immediately carried to the credit of the Treasury, is the better to con-

form to the *strict* theory of appropriations, which supposes that there is always a representative in the Treasury for any sums which may have come into it, and may not have been applied according to their legal destination.

By making the instalments commence only with the first of June, there would be a deficiency in the Treasury, if all the calculated disbursements were to take place within the time; but this seldom or never happens; and should a deficiency be experienced, it may safely be counted upon that the Bank would accelerate its latter instalments. And, as it may turn out that a loan may have been procured in Europe, it seems to be the most prudent mean to postpone the commencement of the instalments to the 1st of June, as proposed.

If the Bank will, as heretofore, leave it in the discretion of the Treasury to call for the money as wanted, which will be attempted, it will obviate all difficulty; but it is hardly to be expected they will repeat a practice so little provident on their part.

All which is respectfully submitted.

ALEXANDER HAMILTON,
*Secretary of the Treasury.*

## No. I.

*Probable state of cash from the last of December, 1792, to the first of April, 1793.*

*Dr.*

| | |
|---|---|
| To balance of cash in the Treasury, per Statement A, . . . | $783,444 51 |
| " cash in the Bank on account of foreign bills, not passed to credit of the Treasurer, per Statement A B, . . . . . | 605,883 08 |
| " amount of proceeds of ditto deposited with the Bank of North America, . . . . . | 177,998 80 |
| " proceeds of Amsterdam bills expected to be received by the first April, . . . . . | 614,593 02 |
| " cash in the hands of Collectors at the end of 1792, per Abstract D, . . . . . | 151,851 25 |
| " sums expected to be received during the present quarter on account of duties prior to 1793, . . . . . | 918,254 82 |

| | | |
|---|---|---|
| To sum which may be received on account of duties of the current quarter, | | 10,000 00 |
| " excess of dividends beyond the interest on the stock of the government in the Bank of the United States for the last half year, | | 20,000 00 |
| | | 3,282,025 48 |

Contra. *Cr.*

| | | |
|---|---|---|
| By amount of warrants which were drawn prior to the first of January, 1793, and not paid by the Treasurer,* | | $42,136 33 |
| " sums for which warrants have issued subsequent to the year 1792, | | 549,640 91 |
| " sums which were payable to foreign officers on the 31st December last, | $172,962 11 | |
| From which deduct payments made since that period, included in the amount above stated, of warrants issued subsequent to the year 1792, | 9,985 27 | 162,976 84 |
| By sums payable on account of the debt to France to the first of April inclusively, | | 165,000 00 |
| " arrears for the War Department, | | 50,000 00 |
| " other arrears to the end of 1792, | | 50,000 00 |
| " quarter's interest on the public debt, | | 712,298 68 |
| " quarter part of the expenditure for the current service, | | 404,196 27 |
| " sum requisite for the purposes of Indian treaty, | | 75,000 00 |
| " sum advanced by the Bank of North America, included in the deposit of the proceeds of bills per contra, | | 156,595 56 |
| " sum to be issued from the Treasury to enable the Secretary of State to pay for the bills furnished to him for the purpose of the third section of the act of last session, making certain appropriations therein specified, | | 50,000 00 |
| " first instalment of $2,000,000 due to the Bank of the United States, | | 200,000 00 |
| " balance, | | 664,180 89 |
| | | 3,282,025 48 |

* These, of course, did not come into his account for the last quarter, 1792.

## No. II.

*W. & J. Willink, N. & J. Van Staphorst and Hubbard, Amsterdam,*

| 1793. | *Dr.* | |
|---|---|---|
| Jan. 1st. | To balance in their hands, | 1,744,750 |
| | " residue of the last three millions loan, to be received, | 360,000 |
| | " balance for which the Commissioners will be in advance on the 1st March, 1793, | 72,265 |
| | | Fls. 2,177,015 |

| 1793. | Contra. *Cr.* | |
|---|---|---|
| | By premium on the residue of the three millions loan, at 5 per cent., | 18,000 |
| | " interest due to foreign officers, | 105,000 |
| Feb. 1st. | " interest on three millions, at 5 per cent., | 150,000 |
| | " do. on two millions, at 4 per cent., | 80,000 |
| | " premium on do., | 100,000 |
| | " gratuity on do., at 8 per cent., | 28,000 |
| March 1st. | " interest on two and a half millions, 5 per cent., | 125,000 |
| | " commission on paying interest 355,000 flor's, 1 per cent., | 3,550 |
| 1792. | | |
| Nov. 30. | " draughts of the Treasurer, | 1,237,500 |
| Dec. 28. | " ditto, | 24,750 |
| | " remittances to be made to Spain, estimated fls., 680 000 | |
| | " on account of which have been remitted, 374,785, | 305,215 |
| | | flos. 2,177,015 |

## No. III.

*Probable state of cash from the 1st of April to the 1st of July, 1793.*

*Dr.*

| | | |
|---|---|---|
| To balance of cash, per Statement No. 1, | | 664,180 89 |
| To amount of sums expected to be received during the quarter on account of the duties of imports and tonnage, viz.: | | |
| Per returns to 7th March, 1793, | 747,691 96 | |
| Per estimate in the cases of deficient returns, | 200,000 00 | 947,691 96 |
| To amount of sums expected to be received on account of duties on spirits distilled within the United States, | | 100,000 00 |
| To balance against the Treasury to be supplied by loan, | | 672,023 26 |
| | | $2,383,896 11 |

Contra. *Cr.*

| | |
|---|---|
| By this sum invested and expected to be invested towards the payments which will become due in Holland on the 1st of June next, | 623,137 37 |
| By this sum to complete the advances for St. Domingo, | 149,763 79 |
| By this sum promised in addition to 100,000 dollars, payable on the 1st of April, and credited in statement No. 1 for supplies to France, | 444,500 00 |
| By amount of one quarter's interest, | 712,298 68 |
| By one quarter of the current expenditure for 1793, | 404,196 27 |
| By probable demands for arrears of appropriations antecedent to 1793, | 50,000 00 |
| | $2,383,896 11 |

## No. IV.

*Probable state of cash from the 1st of July to the 1st of October*, 1793.

*Dr.*

| | | |
|---|---|---|
| To amount of sums expected to be received this quarter on account of imports and tonnage, per return to the 7th of March, Dls. | 391,047 67 | |
| Ditto per estimate, | 200,000 00 | 591,047 67 |
| To amount of sums expected to be received on account of spirits distilled within the United States, | | 200,000 00 |
| To balance against the Treasury, | | 325,447 28 |
| | | 1,116,494 95 |

Contra. *Cr.*

| | |
|---|---|
| By amount of one quarter's interest, | 712,298 68 |
| By one quarter of the current expenditure for 1793, | 404,196 27 |
| | 1,116,494 95 |

JEFFERSON TO HAMILTON.

PHILADELPHIA, March 27, 1793.

SIR:

In compliance with the desire you expressed, I shall endeavor to give you the view I had of the destination of the loan of three millions of florins obtained by our bankers in Amsterdam, previous to the acts of the 4th and 12th of August, 1790, when it was proposed to adopt it under those acts. I am encouraged to do this by the degree of certainty with which I can do it, happening to possess an official paper whereon I had committed to writing some thoughts on the subject, at the time, that is to say, on the 26th of August, 1790.

The general plan presented to view, according to my comprehension of it, in your report and draft of instructions, was, first, to borrow, on proper terms, such a sum of money as might answer all demands for principal and interest of the foreign debt due to the end of 1791; second, to consider *two* of the three millions of florins already borrowed, as if borrowed under the act of August 4, and so far an execution of the operation before mentioned; third, to consider the *third* million of florins so borrowed, as if borrowed under the act of the 12th of August, and so far an execution of the powers given to the President to borrow two millions of dollars for the purchase of the public debt. I remember that the million of dollars surplus of the public revenues, appropriated to the purchase of the public debt, appeared to me sufficient for that purpose *here*, for probably a considerable time. I thought, therefore, if any part of the three millions of florins were to be placed under the act of the 12th of August, that it should rather be employed in purchasing our *foreign paper* at the market of Amsterdam. I had myself observed the different degrees of estimation in which the paper of different countries was held at that market, and wishing that our credit there might always be of the first order, I thought a moderate sum kept in readiness there, to buy up any of our *foreign paper*, whenever it should be offered below par, would keep it constant-

ly to that mark, and thereby establish for us a sound credit, where, of all places in the world, it would be most important to have it.

The subject however not being within my department, and therefore having no occasion afterwards to pay attention to it, it went out of my mind altogether, till the late inquiries brought it forward again. On reading the President's instructions of August 28, 1790 (two days later than the paper before mentioned), as printed in your report of February 13, 1793, in the form in which they were given to you, I observed that he had therein neither confirmed *your* sentiment of employing a part of the money *here*, nor *mine* of doing it *there*, in purchases of the public debt; but had directed the application of the whole to the *foreign debt;* and I inferred that he had done this on full and deliberation, well knowing he would have time enough to weigh the merits of the two opinions before the million of dollars would be exhausted *here*, or the loans for the foreign debt would overrun their legal measure *there*. In this inference, however, I might be mistaken; but I cannot be in the fact that these instructions gave a sanction to neither opinion.

I have thus, sir, stated to you the view I had of this subject in 1790, and I have done it because you desired it. I did not take it up then as a volunteer, nor should now have taken the trouble of recurring to it, but at your request, as it is one in which I am not particularly concerned, which I never had either the time or inclination to investigate, and on which my opinion is of no importance.

I have the honor to be with respect, &c.

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## HAMILTON TO WASHINGTON.

PHILADELPHIA, April 5, 1793.

SIR:

The ship *John Buckley* is just arrived here from Lisbon, which place she left on the 23d of February.

The Messrs. Walns, a respectable mercantile house here, have received a letter from Mr. John Buckley, a respectable merchant of Lisbon, after whom the ship is named, of which the following is an extract:

"By letters from France, by this day's post, we find that an embargo took place there the 2d instant, on all English, Russian, and Dutch vessels, which is certainly the prelude of war." This letter is dated the 22d of February.

Messrs. Walns in addition inform ——, that on the 23d of February, the moment the ship was getting under way, Mr. Buckley came on board with a letter from Mr. Fenwick, of Bourdeaux, informing him that war had been declared by France against England, Russia, and Holland. The foregoing particulars I have directly from the Walns.

The report in the city is, that the war was declared on the 8th of February.

Combining this with the letter of Lord Grenville to Mr. Chauvelen, requiring his departure, and the King's Message to the House of Commons, founded upon—there seems to be no room for doubt of the existence of war.

P. S. I this instant learn that there are English papers in town, by way of St. Vincent's, which mention that on the 8th of February the late Queen of France was also put to death, after a trial and condemnation.

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### HAMILTON TO WASHINGTON.

PHILADELPHIA, April 8th, 1793.

SIR:

The papers of to-day, which, I take it for granted, are forwarded to you, will inform you of a confirmation of the war between France, England and Holland, and of such other leading particulars as are contained in the English papers brought by the packet.

The object of this letter is merely to apprise you that the whole current of *commercial intelligence*, which comes down to the 11th of February, indicates thus far an *unexceptionable* conduct on the part of the British government towards the vessels of the United States.

The information is received here with very great satisfaction, as favorable to a continuance of peace, the desire of which may be said to be both universal and ardent.

With the highest respect and the truest attachment, &c.

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WASHINGTON TO HAMILTON.

MOUNT VERNON, 12th April, 1793.

DEAR SIR:

Your letter of the 7th was brought to me by the last post. War having actually commenced between France and Great Britain, it behooves the government of this country to use every means in its power to prevent the citizens thereof from embroiling us with either of those powers, by endeavoring to maintain a strict neutrality. I therefore require that you will give the subject mature consideration, that such measures as shall be deemed most likely to effect this desirable purpose may be adopted without delay; for I have understood that vessels are already designated as privateers, and are preparing accordingly.

Such other measures as may be necessary for us to pursue against events which it may not be in our power to avoid or control, you will also think of, and lay them before me on my arrival in Philadelphia, for which place I shall set out to-morrow, but will leave it to the advices which I may receive to-night by the post to determine whether it is to be by the most direct route, or by the one I proposed to come, that is, by Reading.

With very great esteem and regard, I am, &c.

## SUBSTANCE OF THE ANSWER PROPOSED TO THE LETTER OF THE FRENCH MINISTER, OF APRIL 13.

Draft by Jefferson.

April 18th, 1793.

Before the new government of France had time to attend to the things on this side of the Atlantic, and to provide a deposit of money for their purposes here, there was a necessity that we, as their friends and debtors, should keep their affairs from suffering, by furnishing money for urgent purposes. This obliged us to take on ourselves to judge of the purpose, because, on the soundness of that, we were to depend for our justification; hence we furnished moneys for their colonies and their agents here—justified, in our own opinion, by the importance and necessity of the case. But that necessity is now at an end. The government has established a deposit of money in the hands of their minister here. We have nothing now to do but to furnish the money, for which the order is our direction. We are no longer to look into the purposes to which it is to be applied. Their minister is to be judge of these, and to pay the money to whom and for what he pleases.

If it be urged that they have appropriated all the money we are advancing to another object; that he is not authorized to divert any of it to any other purpose, and therefore needs a further sum; it may be answered, that it will not lessen the stretch of authority to add an unauthorized payment by us, to an unauthorized application by him; and that it seems fitter that he should exercise a discretion over their appropriations, standing as he does in a place of confidence, authority, and responsibility, than we who are strangers and unamenable to them. Private reasons of weight, which need not be expressed to the minister, that these applications make us, in some sort, a board of auditors for French accounts, and subject our payments to question.

That it is known to us, that the present minister, not having the confidence of his government, is replaced by another, and consequently the authority of his application is lessened. That

it is rather probable the whole establishment of their counsels here will be suppressed, as useless and expensive to them, and rather vexatious to us.

TH. JEFFERSON.

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WASHINGTON TO HAMILTON.

PHILADELPHIA, April 18th, 1793.

SIR:

The posture of affairs in Europe, particularly between France and Great Britain, places the United States in a delicate situation, and requires much consideration as to the measures which it will be proper for them to observe in the war between those powers. With a view to forming a general plan of conduct for the Executive, I have stated and inclosed sundry questions, to be considered preparatory to a meeting at my house to-morrow, where I shall expect to see you at nine o'clock, and to receive the result of your reflections thereon.

*Question* 1.—Shall a proclamation issue for the purpose of preventing interferences of the citizens of the United States in the war between France and Great Britain, &c.? Shall it contain a declaration of neutrality or not? What shall it contain?

*Question* 2.—Shall a minister from the republic of France be received?

*Question* 3.—If received, shall it be absolutely, or with qualifications; and if with qualifications, of what kind?

*Question* 4.—Are the United States obliged, by good faith, to consider the treaties heretofore made with France, as applying to the present situation of the parties? May they either renounce them, or hold them suspended till the government of France shall be *established?*

*Question* 5.—If they have the right, is it expedient to do either, and which?

*Question* 6.—If they have an option, would it be a breach of neutrality to consider the treaties still in operation?

*Question* 7.—If the treaties are to be considered as now in operation, is the guarantee in the treaty of alliance applicable to a defensive war only, or to war either offensive or defensive?

*Question* 8.—Does the war in which France is engaged, appear to be offensive or defensive on her part, or of a mixed and equivocal character?

*Question* 9.—If of a mixed and equivocal character, does the guarantee, in any event, apply to such a war?

*Question* 10.—What is the effect of a guarantee, such as that to be found in the treaty of alliance between the United States and France?

*Question* 11.—Does any article in either of the treaties prevent ships of war, other than privateers, of the powers opposed to France, from coming into the ports of the United States, to act as convoys to their own merchantmen? or does it lay other restraints upon them, more than would apply to the ships of war of France?

*Question* 12.—Should the future regent of France send a minister to the United States, ought he to be received?

*Question* 13.—Is it necessary or advisable to call together the two Houses of Congress, with a view to the present posture of European affairs? If it is, what should be the particular objects of such a call?

GEO. WASHINGTON.

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## CABINET OPINION.

April 19th, 1793.

At a meeting of the Heads of Departments, and the Attorney-General, at the President's, April 19th, 1793, to consider the foregoing questions proposed by the President, it was determined by all, on the first question, that a proclamation shall issue, forbidding our citizens to take part in any hostilities on the seas,

with or against any of the belligerent powers; and warning them against carrying to any such powers, any of those articles deemed contraband, according to the modern usage of nations; and enjoining them from all acts and proceedings inconsistent with the duties of a friendly nation towards those at war.

On the second question, "Shall a minister from the republic of France be received?" It was unanimously agreed that he shall be received.

The remaining questions were postponed for further consideration.

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April 22, 1793.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands, of the one part, and France on the other; and the duty and interest of the United States require, that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial toward belligerent powers:

I have therefore thought fit by these presents to declare the disposition of the United States to observe the conduct aforesaid toward those powers respectively, and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever, which may in any manner tend to contravene such disposition.

And I do hereby also make known, that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding, or abetting hostilities against any of the said powers, or by carrying to any of them those articles which are deemed contraband by the *modern* usage of nations, will not receive the protection of the United States against such punishment or for-

feiture: and further, that I have given instructions to those officers, to whom it belongs, to cause prosecutions to be instituted against all persons who shall, within the cognizance of the courts of the United States, violate the law of nations, with respect to the powers at war, or any of them.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand.

Done at the city of Philadelphia, the twenty-second day of April, one thousand seven hundred and ninety-three, and of the independence of the United States of America the seventeenth.

GEORGE WASHINGTON.

By the President.
TH. JEFFERSON.

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## HAMILTON TO WASHINGTON.

April, 1793.

*Question the Third proposed by the President of the United States.* —"If a minister from the republic of France shall be received, shall it be absolutely, or with qualifications—and if with qualifications, of what kind?"

*Answer.*

It is conceived to be advisable that the reception of the expected minister from the republic of France should be qualified by a previous declaration, substantially to this effect: "That the government of the United States, uniformly entertaining cordial wishes for the happiness of the French nation, and disposed to maintain an amicable communication and intercourse, uninterrupted by political vicissitudes, does not hesitate to receive him in the character which his credentials import; yet, considering the origin, course, and circumstances of the relations originally contracted between the two countries, and the existing position of the affairs of France, it is deemed advisable and proper on the part of the United States, to reserve to future consideration and

discussion the question—whether the operation of the treaties, by which those relations were formed, ought not to be deemed temporarily and provisionally suspended; and under this impression, it is thought due to a spirit of candid and friendly procedure to apprise him beforehand of the intention to reserve that question, lest silence on the point should occasion misconstruction."

The grounds of this opinion are as follow:

The treaties between the United States and France were made with His Most Christian Majesty, his heirs and successors. The government of France, which existed at the time those treaties were made, gave way, in the first instance, to a new constitution, formed by the representatives of the nation, and accepted by the king, which went into regular operation. Of a sudden, a tumultuous rising took place. The king was seized, imprisoned, and declared to be suspended by the authority of the National Assembly; a body delegated to exercise the legislative functions of the already established government—in no shape authorized to divest any other of the constituted authorities of its legal capacities or powers. So far, then, what was done was a manifest assumption of power.

To justify it, it is alleged to have been necessary for the safety of the nation, to prevent the success of a counter-revolution meditated or patronized by the king.

On the other side, it is affirmed that the whole transaction was merely the execution of a plan which had been for some time projected, and had been gradually ripening, to bring about an abolition of the royalty and the establishment of a republican government.

No satisfactory proof is known to have been produced to fix upon the king the charges which have been brought against him.

On the other hand, declarations have escaped from characters who took a lead in the measure of suppressing the royalty, which seem to amount to a tacit acknowledgment, that the events of the 10th of August were the result of a premeditated plan of the republican party, to get rid of the monarchical power, rather than a necessary counteraction of mischievous designs on the part of the king.

Mr. De Malsherbes, one of the counsel of the king, makes this striking reflection on the point.

The events of the 10th of August were followed on the 2d and 3d of September with the massacre of a great number of persons in different parts of France, including several distinguished individuals, who were known to be attached either to the ancient government, or to the constitution which had succeeded to it.

The suspension of the king was accompanied by a call upon the primary assemblies to depute persons to represent them in a convention, in order to the taking of such measures as the exigency of the conjuncture might require.

Under circumstances not free from precipitation, violence and awe, deputies to a national convention were chosen. They assembled on the at Paris, and on the very day of their meeting decreed the abolition of royalty.

They proceeded in the next place to organize a temporary provisional government, charged with managing the affairs of the nation, till a constitution should be established.

As a circumstance that gives a complexion to the course of things, it is proper to mention that the Jacobin Club at Paris (a society which, with its branches in different parts of France, appears to have had a prevailing influence over the affairs of the country), previous to the meeting of the convention, entered into measures with the avowed object of *purging* the convention of those persons, favorers of royalty, who might have escaped the *attention* of the *primary assemblies.*

In the last place, the late king of France has been tried and condemned by the convention, and has suffered death.

Whether he has suffered justly or unjustly, whether he has been a guilty tyrant or an unfortunate victim, is at least a problem. There certainly can be no hazard in affirming, that no proof has yet come to light sufficient to establish a belief that the death of Louis is an act of national justice.

It appears to be regarded in a different light throughout Europe, and by a numerous and respectable part, if not by a majority, of the people of the United States.

Almost all Europe is or seems likely to be armed in opposition to the present rulers of France, with the declared or implied intention of restoring, if possible, the royalty in the successor of the deceased monarch.

The present war, then, turns essentially on the point—What shall be the future government of France? Shall the royal authority be restored in the person of the successor of Louis, or shall a republic be constituted in exclusion of it?

Thus stand the material facts which regard the origin of our connections with France, and the obligations or dispensations that now exist.

They have been stated, not with a view to indicate a definitive opinion concerning the propriety of the conduct of the present rulers of France, but to show that the course of the revolution there has been attended with circumstances, which militate against a full conviction of its having been brought to its present stage by such a *free*, *regular*, and *deliberate* act of the nation, and with such a spirit of justice and humanity, as ought to silence all scruples about the validity of what has been done, and the morality of aiding it, if consistent with policy.

This great and important question arises out of the facts which have been stated:

Are the United States bound, by the principles of the laws of nations, to consider the treaties heretofore made with France as in present force and operation between them and the actual governing powers of the French nation? or may they elect to consider their operation as suspended, reserving also a right to judge finally whether any such changes have happened in the political affairs of France, as may justify a renunciation of those treaties?

It is believed that they have an option to consider the operation of those treaties as suspended, and will have eventually a right to renounce them, if such changes shall take place as can *bona fide* be pronounced *to render* a continuance of the connections which result from them disadvantageous or dangerous.

There are two general propositions which may be opposed to this opinion:—1st. That a nation has a right, in its own discretion, to change its form of government—to abolish one, and

substitute another. 2d. That *real* treaties (of which description those in question are) bind the NATIONS whose governments contract, and continue in force notwithstanding any changes which happen in the forms of their government.

The truth of the first proposition ought to be admitted in its fullest latitude. But it will by no means follow, that, because a nation has a right to manage its own concerns as it thinks fit, and to make such changes in its political institutions as itself judges best calculated to promote its interests, that it has therefore a right to involve other nations, with whom it may have had connections, *absolutely* and *unconditionallg*, in the consequences of the changes which it may think proper to make. This would be to give to a nation or society not only a power over its own happiness, but a power over the happiness of other nations or societies. It would be to extend the operation of the maxim much beyond the *reason* of it, which is simply, that every nation ought to have a right to provide for its own happiness.

If, then, a nation thinks fit to make changes in its government, which render treaties that before subsisted between it and another nation useless, or dangerous, or hurtful to that other nation, it is a plain dictate of reason, that the *latter* will have a right to renounce those treaties; because it also has a right to take care of its own happiness, and cannot be obliged to suffer this to be impaired by the means which its neighbor or ally may have adopted for its own advantage, contrary to the ancient state of things.

But it may be said, that an obligation to submit to the inconveniences that may ensue, arises from the other maxim which has been stated, namely, that real treaties bind nations, notwithstanding the changes which happen in the forms of their governments.

All general rules are to be construed with certain reasonable limitations. That which has been just mentioned must be understood in this sense,—that changes in forms of government do not of course abrogate *real* treaties; that they continue absolutely binding on the party which makes the change, and will bind the other party, unless, in due time and for just cause, he declares

his election to renounce them; that in good faith he ought not to renounce them, unless the change which happened does really render them useless, or materially less advantageous, or more dangerous than before. But for good and sufficient cause he may renounce them.

Nothing can be more evident than that the existing forms of government of two nations may enter far into the motives of a real treaty. Two republics may contract an alliance, the principal inducement to which may be a similarity of constitutions, producing a common interest to defend their mutual rights and liberties. A change of the government of one of them into a monarchy or despotism may destroy the inducement and the main link of common interest. Two monarchies may form an alliance on a like principle, their common defence against a powerful neighboring republic. The change of the government of one of the allies may destroy the source of common sympathy and common interest, and render it prudent for the other ally to renounce the connection and seek to fortify itself in some other quarter.

Two nations may form an alliance because each has confidence in the energy and efficacy of the government of the other. A revolution may subject one of them to a different form of government—feeble, fluctuating, and turbulent, liable to provoke wars, and very little fitted to repel them. Even the connections of a nation with other foreign powers may enter into the motives of an alliance with it. If a dissolution of ancient connections shall have been a consequence of a revolution of government, the external political relations of the parties may have become so varied as to occasion an incompatibility of the alliance with the power, which had changed its constitution with the other connections of its ally—connections perhaps essential to its welfare.

In such cases, reason, which is the touchstone of all similar maxims, would dictate that the party whose government had remained stationary, would have a right under a *bona fide* conviction that the change in the situation of the other party would render a future connection detrimental or dangerous, to declare the connection dissolved.

Contracts between nations as between individuals, must lose their force where the considerations fail.

A treaty pernicious to the state, is of itself void, where no change in the situation of either of the parties takes place. By a much stronger reason it must become *voidable* at the option of the other party, when the voluntary act of one of the allies has made so material a change in the condition of things, as is always implied in a radical revolution of government.

Moreover, the maxim in question must, I presume, be understood with this further limitation—that the revolution be *consummated*—that the new government be *established*, and recognized among nations—that there be an *undisputed* organ of the national will to obtain the performance of the stipulations made with the former government.

It is not natural to presume that an ally is obliged to throw his weight into either scale, where the war involves the very point—what shall be the government of the country; and that too against the very party with whom the formal obligations of the alliance have been contracted.

It is more natural to conclude that in such a case, the ally ought either to aid the party, with whom the contract was immediately made, or to consider the operation of the alliance as suspended. The latter is undoubtedly his duty, rather than the former, where the nation appears to have pronounced the change.

A doctrine contrary to that here supported may involve an opposition of moral duties, and dilemmas of a very singular and embarrassing kind.

A nation may owe its existence or preservation entirely, or in a great degree, to the voluntary succors which it derived from a monarch of a country—the then lawful organ of the national will, the director of its sword and its purse, the dispenser of its aid and its favors. In consideration of the good offices promised or afforded by him, an alliance may have been formed between the monarch, his heirs and successors, and the country indebted to him for those good offices—stipulating future co-operation and mutual aid. This monarch, without any particular crime on his part, may be afterwards deposed and expelled by his nation, or

by a triumphant faction, which may, perhaps, momentarily direct the nation's voice. He may find in the assistance of neighboring powers friendly to his cause the means of endeavoring to reinstate himself.

In the midst of his efforts to accomplish this purpose, the ruling powers of the nation, over which he had reigned, call upon the country, which had been saved by his friendship and patronage, to perform the stipulations expressed in the alliance made with him, and embark in a war against their friend and benefactor—on the suggestion, that the treaty being a *real* one, the actual rulers of the nation have a right to claim the benefit of it.

If there be no option in such case, would there not be a most perplexing conflict of opposite obligations?—of the faith supposed to be plighted by the treaty, and of justice and gratitude towards a man from whom essential benefits had been received, and who could oppose the formal and express terms of the contract to an abstract theoretic proposition? Would genuine honor, would true morality permit the taking a hostile part against the friend and benefactor, being at the same time the original party to the contract?

Suppose the call of the actual rulers to be complied with, and the war to have been entered into by the ally. Suppose the expelled monarch to have re-entered his former dominions, and to have been joined by one-half of his former subjects—how would the obligation then stand? He will now have added to the title of being the formal party to the contract, that of being the actual possessor of one half the country and of the wishes of one half the nation.

Is it supposable that, in such a case, the obligations of the alliance can continue in favor of those by whom he had been expelled? or would they then revert again to the monarch? or would they fluctuate with the alternations of good and ill fortune attending the one or the other party? Can a principle which would involve such a dilemma be true? Is it not evident that there must be an option to consider the operation of the alliance as suspended during the contest concerning the government—that, on the one hand, there may not be a necessity of

taking part with the expelled monarch against the apparent will of the nation, or, on the other, a necessity of joining the ruling powers of the moment against the immediate party with whom the contract was made, and from whom the consideration may have flowed?

If the opinions of writers be consulted, they will, as far as they go, confirm the sense of the maxim which is here contended for.

Grotius, while he asserts the general principle of the obligation of real treaties upon nations, notwithstanding the changes in their governments, admits the qualification which has been insisted upon, and expressly excepts the case where it appears that the motive to the treaty was "peculiar to the form of government, *as* when free states enter into an alliance for the defence of their liberties." Book II., chap. xvi., § 16, No. 1.

And *Vatel*, who is the most systematic of the writers on the laws of nations, lays down the qualification in the greatest latitude. To give a correct idea of his meaning, it will be of use to transcribe the entire section, with its marginal note. It is found Book II., ch. xii., § 197.

"What is the obligation of a *real alliance*, when the king, who is the ally, is driven from the throne?"

"The same question," says he, (to wit, that stated in the margin,) "presents itself in *real* alliances made, and in general in all alliances made with the state, and not in particular with a king for the defence of his person. An ally ought doubtless to be defended against every invasion, against every foreign violence, and even against his rebellious subjects; in the same manner, a republic ought to be defended against the enterprises of one who attempts to destroy the public liberty. But it ought to be remembered that an ally of the state or the nation is not its judge. If the nation has deposed its king in form, if the people of a republic have driven out their magistrates and set themselves at liberty, or acknowledged the authority of an usurper, either expressly or tacitly; to oppose these domestic regulations by disputing their justice or validity, would be to interfere with the government of a nation, and do it an injury. *The ally remains the ally of the state*, notwithstanding the change which has happened in it.

However, when this change renders the alliance *useless*, *dangerous*, or *disagreeable*, it may renounce it; for it may say, upon a good foundation, that it would not have entered into an alliance with that nation had it been under the present form of government."

It is not perceived that there is any ambiguity of expression, or any other circumstance, to throw the least obscurity upon the sense of the author. The precise question he raises is, What is the obligation of a *real* alliance, when the king, who is the ally, is driven from the throne? He concludes, after several intermediate observations, that the ally *remains the ally of the State*, notwithstanding the change which has happened. Nevertheless, says he, when the change renders the alliance *useless*, *dangerous*, or *disagreeable*, it may be renounced.

It is observable, that the question made by writers always is, whether, in a real alliance, when the king who is the ally is deposed, the ally of the deposed king is bound to succor and support him. And though it is decided by the better opinions, as well as by the reason of the thing, that there is not an obligation to support him against the will of the nation, when his dethronement is to be ascribed to that source, yet there is never a single suggestion, on the other hand, of the ally of such dethroned king being obliged to assist his nation against him. The most that appears to be admitted in favor of the decision of the nation is, that there is no support due to the dethroned prince.

Puffendorf puts this matter upon very proper grounds. Referring to the opinion of Grotius, who with too much latitude lays it down, "that a league made with a king is valid, though that king or his successors be expelled the kingdom *by his subjects;* for though he has lost his possession, the right to the crown still remains in him," he makes the following observation: "To me, so much in this case seems to be certain, that if the terms of the league *expressly mention* and *intend* the defence of the prince's *person* and *family*, he ought to be assisted in the recovery of his kingdom. But if the league was formed for *public good* only, 'tis a disputable point whether the exiled prince can demand assistance in virtue of his league. *For the aids mentioned are presumed*

*to have been promised against foreign enemies, without view of this particular case.* Not but that still such a league leaves *liberty* to assist a *lawful prince* against an *usurper.*"

The presumption here stated is a natural and proper one, and in its reason applies to both sides—to the exiled prince, who should demand succors against his nation, and to the nation, who having dethroned its prince, should demand succor to support the act of dethronement and establish the revolution. The ally in such case is not bound to come in aid of either party, but may consider the operation of the alliance as suspended till the competition about the government is decided.

What a difference is there between asserting it to be a *disputable* point, whether the ally of a dethroned prince, in the case of a real treaty, is not bound to assist him against the nation, and maintaining that the ally is bound at all events to assist the nation against him! For this is the consequence of asserting that such a treaty *ipso facto* attaches itself to the body of the nation, even in the course of a pending revolution, and without option either to suspend or renounce.

If the practice of nations be consulted, neither will that be found to confirm the proposition, that the obligation of real treaties extends unconditionally to the *actual governors* of nations, whatever changes take place. In the books which treat on the subject, numerous examples of the contrary are quoted. The most prevailing practice has been to assist the *ancient sovereign.* In the very instance to which this discussion relates, this is the course which a great part of Europe directly or indirectly pursues.

It may be argued by way of objection to what has been said, that admitting the general principle of a right for sufficient cause to renounce; yet still, as the change in the present case is from a monarchy to a *republic*, and no sufficient excuse hitherto exists for a renunciation, the possibility of its arising hereafter in the progress of events, does not appear a valid reason for resorting to the principle in question. To this the answer is, that no government has yet been instituted in France in lieu of that which has been pulled down. That the existing political powers are, by

the French themselves, denominated provisional, and are to give way to a constitution to be established.

It is therefore impossible to foresee what the future government of France will be; and in this state of uncertainty, the right to *renounce*, resolves itself into, of course, a right to *suspend*. The one is a consequence of the other; applicable to the *undetermined* state of things. If there be a right to renounce when the change of government proves to be of a nature to render an alliance useless or injurious, there must be a right amidst a pending revolution, to wait to see what change will take place.

Should it be said, that the treaty is binding now, no objectionable change having yet taken place, but may be renounced hereafter, if any such change shall take place:

The answer is, that it is not possible to pronounce at present what is the *quality* of the change. Every thing is *in transitu*. This state of suspense, as to the object of option, naturally suspends the option itself. The business may, in its progress, assume a variety of forms. If the issue may not be waited for, the obligations of the country may fluctuate indefinitely—be one thing to-day, another to-morrow; a consequence which is inadmissible.

Besides, the true reasoning would seem to be, that to admit the operation of the treaties, while the event is pending, would be to take the chance of what that event shall be, and would preclude a future renunciation.

Moreover, the right to consider the operation of the treaties as suspended, results from this further consideration, that during a *pending revolution*, an ally in a real treaty is not bound to pronounce between the competitors.

The conclusion from the whole is, that there is an option in the United States to hold the operation of the treaties suspended; and that in the event, if the form of government established in France shall be such as to render a continuance of the treaties contrary to the interest of the United States, they may be renounced.

If there be such an option, there are strong reasons to show that the character and interests of the United States require, that

they should pursue the course of holding the operation of the treaties suspended.

Their character:

Because it was from Louis XVI., the then sovereign of the country, that they received those succors which were so important in the establishment of their independence and liberty. It was with him, his heirs, and successors, that they contracted their engagements—by which they obtained those precious succors.

It is enough, on their part, to respect the right of the nation to change its government, so far as not to side with the successors of the dethroned prince; as to receive their ambassador, and keep up an amicable intercourse; as to be willing to render every good office, not contrary to the duties of a real neutrality.

To throw their weight into the scale of the new government, would, it is to be feared, be considered by mankind as not consistent with a decent regard to the relations which subsisted between them and Louis XVI.; as not consistent with a due sense of the services they received from that unfortunate prince; as not consistent with national delicacy and decorum.

The character of the United States may also be concerned in keeping clear of any connection with the present government of France, in other views.

A struggle for liberty is in itself respectable and glorious; when conducted with magnanimity, justice, and humanity, it ought to command the admiration of every friend to human nature; but if sullied by crimes and extravagancies, it loses its respectability. Though success may rescue it from infamy, it cannot, in the opinion of the sober part of mankind, attach to it much positive merit or praise. But in the event of a want of success, a general execration must attend it.

It appears, thus far, but too probable, that the pending revolution of France has sustained some serious blemishes. There is too much ground to anticipate, that a sentence uncommonly severe will be passed upon it if it fails.

Will it be well for the United States to expose their reputation to the *issue*, by implicating themselves as associates? Will

their reputation be promoted by a successful issue? What will it suffer by the reverse?

These questions suggest very serious considerations to a mind anxious for the reputation of the country—anxious that it may emulate a character of sobriety, moderation, justice, and love of order.

The *interest* of the United States seems to dictate the course recommended, in many ways:

I. In reference to their character, from the considerations already stated.

II. In reference to their peace.

As the present treaties contain stipulations of military succors and military aids, in certain cases which are likely to occur, there can be no doubt, that if there be an option to consider them as not binding, as not in operation, the considering them as binding, as in operation, would be equivalent to making new treaties of similar import; and it is a well settled point, that such stipulations entered into, pending a war, or with a view to a war, is a departure from neutrality.

How far the parties opposed to France may think fit to treat us as enemies, in consequence of this, is a problem which experience only can solve; the solution of which will probably be regulated by their views of their own interest—by the circumstances which may occur; and it is far from impossible that these will restrain them, so long as we, in fact, take no active part in favor of France.

But if there be an option to avoid it, it can hardly be wise to incur so great an additional risk and embarrassment, to implicate ourselves in the perplexities which may follow.

With regard to the good effect of the conduct which is advocated upon the powers at war with France, nothing need be said.

Even considering our interest with reference to France herself, some reasons may be urged in favor of considering the treaties as suspended.

It seems to be the general, if not the universal sentiment, that we ought not to embark in the war.

Suppose the French islands attacked, and we called upon to perform the guarantee. To avoid complying with it, we must either say: That the war being *offensive* on the part of France, the *casus fœderis* does not exist; or, that as our co-operation would be *useless* to the object of the guarantee, and attended with more than ordinary danger to ourselves, we cannot afford it.

Would the one or the other be satisfactory to France?

The first would probably *displease*—the last would *not please.* It is, moreover, the most questionable and the least reputable of all the objections, which a nation is allowed to oppose to the performance of its engagements. We should not therefore be much more certain of avoiding the displeasure of the present ruling powers of France, by considering the treaties as in operation, than by considering their operation as suspended; taking it for granted that we are in either case to observe a neutral conduct *in fact.*

But suppose the contest unsuccessful on the part of the present governing powers of France, what would then *be our situation* with the future government of that country?

Should we not be branded and detested by it as the worst of ingrates?

When it is added, that the restoration of the monarchy would be very naturally attributed to the interposition of Great Britain—the reflection just suggested acquires peculiar weight and importance.

But against this may be placed the consideration, that in the event of the success of the present governing powers, we should stand on much worse ground, by having considered the operation of the treaties as suspended, than by having pursued a contrary conduct.

This is not clear, for the reasons just given; unless we are also willing, if called upon, to become parties in the war. But admitting that the *course* of considering the treaties as in present operation, would give us a claim of merit with France, in the event of the establishment of the republic; our affairs with that country would not stand *so much the better* on this account, as

they would *stand worse* for giving operation to the treaties, should the monarchy be restored.

We should still have to offer a better claim to the friendship of France than any other power—the not taking side with her enemies, the early acknowledgment of the republic by the reception of its minister, and such good offices as have been and may be rendered, consistently with a sincere neutrality.

The reasons, too, which induced us not to go further, will have their due weight in times that shall restore tranquillity and moderation and sober reflection! They will justify us even to France herself.

Is there not, however, danger that a refusal to admit the operation of the treaties might occasion an immediate rupture with France?

A danger of this sort cannot be supposed, without supposing such a degree of intemperance on the part of France as will finally force us to *quarrel* with her or to *embark* with her. And if such be her temper, a fair calculation of hazards will lead us to risk her displeasure in the first instance. An inquiry naturally arises of this kind: Whether from the nature of the treaties, they have any such intrinsic value, as to render it inexpedient to put them in jeopardy, by raising a question about their operation or validity?

Here, it may freely be pronounced, there is no difficulty. The military stipulations they contain, are contrary to that neutrality in the quarrels of Europe, which it is our true policy to cultivate and maintain. And the commercial stipulations to be found in them present no peculiar advantages.

They seem to us nothing or scarcely any thing which an inevitable course of circumstances would not produce. It would be our interest, in the abstract, to be disengaged from them, and take the chance of future negotiation, for a better treaty of commerce.

It might be observed by way of objection to what has been said, that an *admission* of the *operation* of the treaties, has been considered as equivalent to taking part with France.

It is true that the two things have been considered as *equiva-*

*lent* to each other, and in strict reasoning this ought to be the case.—Because,

1. If there be an option, the effect of not using it would be to pass from a *state of neutrality* to that of *being an ally*—thereby *authorizing* the powers at war with France to treat us as an enemy.

2. If under the operation of the treaties we are not bound to embark in the war, it must be owing either to *casualty* or *inability*.

If the war is not *offensive* on the part of France, an attack on the West India Islands would leave us no escape, but in the plea of inability.

The putting ourselves in a situation, in which it might so happen, that we could preserve our neutrality under no other plea than that of *inability*, is, in all the political legal relations of the subject, to make ourselves a party. In other words, the placing ourselves in a position, in which it would depend on casualty whether it would not become our duty to engage in the war, ought, in a general question of establishing or recognizing a political relation with a foreign power embarked in war, to be regarded in the same light as the taking part with that power in the war.

To do a thing, or to contract or incur an obligation of doing it, are not in such a question materially different.

There remain some miscellaneous views of the subject, which will serve to fortify the general reasoning.

I. The conduct of the present government of France gives a sanction to other nations to use some latitude of discretion in respect to their treaties with the former government. That government, it is understood, has formally declared null various stipulations of the ancient government with foreign powers, on the principle of their inapplicability to the new order of things. Were it to be urged, that an erroneous conduct on the part of France will not justify a like conduct on our part, it might be solidly replied, that a rule of practice formally adopted by any nation for regulating its political obligations towards other nations, may justly be appealed to as a standard for regulating the obliga-

tions of those nations towards her. Suppose this general ground to have been explicitly taken by France, that all treaties made by the old government became void by the Revolution, unless recognized by the existing authority—can it be doubted that every other nation would have had a right to adopt the same principle of conduct towards France? It cannot. By parity of reasoning, as far as France may in practice have pursued that principle, other nations may justifiably plead the example.

II. In addition to the embarrassments heretofore suggested, as incident to the admission of the present operation of the treaties, this very particular one may attend our case. An *island* may be taken by Great Britain, or Holland, with the avowed intention of holding it for the future king of France, the successor of Louis XVI. Can it be possible that a treaty made with Louis XVI. should oblige us to embark in the war to rescue a part of his dominions from his immediate successor? Under all the circumstances of the case would the national integrity or delicacy permit it? Was it clear that Louis merited his death as a perfidious tyrant, the last question might receive a different answer, from what can now be given to it!

Ought the United States to involve themselves in a dilemma of this kind?

III. In national questions, the general conduct of nations has great weight. When all Europe is, or is likely to be, armed in opposition to the authority of the present government of France, would it not be to carry theory to an extreme, to pronounce that the United States are *under* an *absolute* indispensable obligation, not only to acknowledge respectfully the authority of that government, but to admit the immediate operation of treaties, which would constitute them at once its ally?

IV. Prudence, at least, seems to dictate the course of *reserving* the question, in order that further reflection and a more complete development of circumstances shall enable us to make a decision both *right* and *safe*. It does not appear necessary to precipitate the fixing of our relations to France beyond the possibility of retraction. It is putting too suddenly too much to hazard.

It may be asked—Does not an unqualified reception of the minister determine the point?

Perhaps it does not; yet there is no satisfactory guide by which to decide the precise import and extent of such a reception by which to pronounce that it would not *conclude* us as to the treaties. There is great room to consider the epoch of receiving a minister from the republic as that *when* we ought to explain ourselves on the point in question—and silence, at that time, as a waiver of our option.

It is probable that on the part of France it will be urged to have this effect; and if it should be truly so considered by her, to raise the question afterwards would lead to complaint, accusation, ill humor.

It seems most candid and most safe to anticipate—not to risk the imputation of inconsistency. It seems advisable to be able to say to foreign powers, if questioned, "In receiving the minister of France, we have not acknowledged ourself its ally. We have reserved the point for future consideration."

It may be asked, whether the reception, at any rate, is not inconsistent with the reservation recommended.

It does not appear to be so. The acknowledgment of a government by the reception of its ambassador, and the acknowledgment of it *as an ally*, are things different and *separable* from each other. However the first, where a connection before existed between the two nations, may imply the last, if nothing is said, this implication may clearly be repelled, by a declaration that it is not the intention of the party. Such a declaration would be in the nature of a protest against the implication; and the declared intent would govern. It is a rule that "*expressum facit cessare tacitum.*"

It may likewise be asked, whether we are not too late for the ground proposed to be taken—whether the payments on account of the debt to France, subsequent to the last change, be not an acknowledgment that all engagements to the former government are to be fulfilled to the present.

The two objects of a debt in money, and a treaty of alliance, have no necessary connection. They are governed by considerations altogether different and irrelative.

The payment of a debt is a matter of perfect and strict obli-

gation. It must be done at all events. It is to be regulated by circumstances of time and place, and ought to be done with precise punctuality.

In the case of a nation, whoever acquires *possession* of its political power, whoever becomes master of its *goods*, of the national property, must pay all the debts which the government of the nation has contracted.

In like manner, on the principle of reciprocity, the sovereign in possession is to receive the debts due to the government of the nation. These debts are at all events to be paid; and *possession* alone can guide as to the party to whom they are to be paid.

Questions of property are very different from those of *political connection.*

Nobody can doubt that the debt due to France is at all events to be paid, whatever *form* of government may take place in that country.

As little is it to be doubted, that it is possible for a form of government to take place in France, justifying the dissolution of a political connection which before subsisted with that country.

Treaties between nations are capable of being affected by a great variety of considerations, casualties and contingencies. Forms of government, it is evident, may be the considerations of them. Revolutions of government, by changing those forms, may consequently vary the obligations of parties.

Hence the payment of a debt to the sovereign in possession does not imply an admission of the present operation of political treaties. It may so happen, that there is a strict obligation to pay the debt, and a perfect right to withdraw from the treaties.

And while we are not bound to expose ourselves to the resentment of the *governing power* of France by refusing to pay a debt at the time and place stipulated; so neither are we bound, pending a contested revolution of government, to expose ourselves to the resentment of other nations, by declaring ourselves the ally of that power, in virtue of treaties contracted with a former sovereign, who still pursues his claim to govern, supported by the general sense and arm of Europe.

ALEXANDER HAMILTON.

TERNANT TO HAMILTON.

PHILADELPHIE, 30 April, 1798.

Le Ministre plenipotentiaire soussigné prie le Secrétaire de la Trésorie des Etats-Unis, de vouloir lui faire payer la somme de vingt mille livres tournois, à compte de la dette des dits Etats envers la France, ainsi qu'il a été précédemment arrêté par le Président.

TERNANT.

L'an 2 de la République Française.

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HAMILTON TO WASHINGTON.

May 2, 1798.

*Answers to remaining questions proposed by the President of the United States on the 15th of April last.*

QUESTION 4.—Are the United States obliged by good faith to consider the treaties heretofore made with France as applying to the present situation of the parties? May they either renounce them or hold them suspended till the government of France shall be established?

ANSWER.—The war is plainly an offensive war on the part of France. *Burlemaqui*, an approved writer, Vol. II., part iv., chapter iii., sec. 4 and 5, thus defines the different species of war: "Neither are we to believe (says he) that he who *first injures another* begins by that an offensive war, and that the other, *who demands satisfaction for the injury* received, is always upon the *defensive*. *There are a great many unjust acts which may kindle a war, and which, however, are not the war, as the ill treatment of a prince's ambassador, the plundering of his subjects, &c.*

"If, therefore, we take up arms to revenge such an unjust act, we commence an offensive but a just war: and the prince who has done the injury, and will not give satisfaction, makes a

defensive but an unjust war. An offensive war is, therefore, unjust only when it is undertaken without a lawful cause; and then the defensive war, which on other occasions might be unjust, becomes just.

"*We must, therefore, affirm in general, that the first who takes up arms, whether justly or unjustly, commences an offensive war; and he who opposes him, whether with or without reason, begins a defensive war.*"

This definition of *offensive* and *defensive* war is conformable to the ideas of writers on the laws of nations in general, and is adopted almost verbatim by Barbeyrac, in his Notes on III. and IV. of Book VII. chap. vi. of Puffendorf's "Law of Nature and Nations."

France, it is certain, was the first to declare war against every one of the powers with which she is at war. Whether she had good cause or not, therefore, in each instance, the war is completely *offensive* on her part.

The forms which she has employed in some of her declarations (when, after reciting the aggressions she alleges to have been committed against her by a particular power, she proceeds to pronounce that war exists between her and such power) cannot alter the substance of the thing. The aggressions complained of, if ever so well founded, and however they may have been of a nature *to kindle the war, were not the war itself.* The war began, in each case, by the declaration and by the commencement of hostilities on the part of France. It was, therefore, clearly offensive on her part.

With regard to the causes that led to the war in each case, it requires more exact information than I have to pronounce upon them with confidence. As regards Austria and Prussia, the suggestion on one hand is, that a combination was formed to overthrow the new constitution of France, and that the declaration on the part of the latter country was only an anticipation of what would soon have proceeded from the confederated powers. On the other hand, it is affirmed that the preparations and arrangements on their part were merely provisional and eventual, and that the republican party in France precipitated a war under

the idea that it would furnish opportunities for accusing and criminating the king's administration, and finally overthrow the royalty. Waiving all definitive opinion on this point, better guides will enable us to pronounce with more certainty in the other cases.

In respect to Holland, there seems to be no doubt that the aggression began with France.

France, in different treaties, had recognized a right in the Dutch to the exclusive navigation of the river Scheldt.

It appears that she had a leading agency in adjusting a controversy on this point, between the late Emperor Joseph and the Netherlands.

The 28th article of a treaty between those parties, concluded at Fontainebleau the 8th of November, 1785, is in these words:

"His most Christian Majesty contributed to the completion of the arrangement made between the high contracting parties, (namely, the Emperor and the States General,) *by his friendly intervention and his effectual and just mediation.* His said Majesty is requested by the high contracting parties, to charge himself likewise with being the guarantee of the present treaty."

Nevertheless, the provisionary Executive Council, by a decree of the 16th of November, 1792, break through all these formal and express engagements, on the pretext of their being contrary to natural right, and declare the navigation of the *Scheldt* and Meuse *free.*

Such an infraction of treaties, on such a ground, cannot be justified without subverting all the foundations of positive and pactitious right among nations. It is equally agreeable to the doctrine of theorists, and to the practice of nations, that rights to the common use of waters of the description in question, may be relinquished and qualified by treaty. To resume them, therefore, on the ground of the *imprescriptibility*, as it is called, of natural rights, is to set up a new rule of conduct, contrary to the common sense and common practice of mankind, amounting in the party which attempts the resumption, to an unequivocal injury to the party against which it is attempted.

In respect to Great Britain the case is not equally clear; but

there is sufficient ground to pronounce, that she had cause of complaint, prior to any given on her part.

It is known that in the early periods of the French revolution, she adopted the ground of neutrality, and nothing is alleged against her till after the 10th of August.

That event led her to withdraw her minister from the Court of France: but before his departure, he left a note declarative of the intention of Great Britain to pursue still a pacific course; accompanied, indeed, with a cautious intimation that personal violence to the king would excite the general indignation of Europe.

But it will hardly be affirmed that this procedure amounted to an aggression. To recall a minister from, or not to keep one at any court, is of itself an act of indifference. The recall, under such circumstances as took place on the 10th of August, was not an extraordinary step. Every government had a right to deliberate, and was bound for its own safety to consider well, when it would recognize a new order of things. The keeping of a minister at France, after the deposition of the king, might be deemed a sanction of the change, and, indeed, was useless, until it was intended to give that sanction.

It was not therefore incumbent upon any power to pursue this course, especially one which was not in the condition of an ally.

The intimation with regard to the king to characterize it in the most exceptionable light, was at most an act of officiousness. Relating to a thing not at the time in agitation, it could only be considered as a caution to avoid a measure which might beget misunderstanding.

The conduct of France shows that she did not at the time consider this step as an injury; for she continued a minister at the court of London, and continued to negotiate.

The next step of Great Britain in order of time, which is complained of by France, and the first of a really hostile complexion, is the restriction on the exportation of corn to France, by way of exception to a general permission to export that article.

This was an unfriendly measure. It happened, as far as I am able to trace it, in the latter part of December, 1792.

But prior to these causes of dissatisfaction, an alarm had been given by France to Great Britain.

The Convention on the 19th of November passed a decree in these words:

"The National Convention declare, in the name of the French nation, that they will grant FRATERNITY and ASSISTANCE to EVERY PEOPLE who wish to recover their liberty; and they charge the executive power to send the necessary orders to the generals to give assistance to such people, and to *defend* those citizens *who may have been or who may be vexed for the cause of liberty.*" Which decree was ordered to be printed IN ALL LANGUAGES.

This decree ought justly to be regarded in an exceptionable light by the government of every country. For though it be lawful and meritorious to assist a people in a virtuous and rational struggle for liberty, *when the particular case happens*, yet it is not justifiable in any government or nation to hold out to the world a *general invitation* and *encouragement* to *revolution* and insurrection, under a promise of *fraternity* and *assistance.*

Such a step is of a nature to disturb the repose of mankind, to excite fermentation in every country, to endanger government every where. Nor can there be a doubt, that wheresoever a spirit of this kind appears, it is lawful to repress and repel it.

But this generally exceptionable proceeding might be looked upon by Great Britain as having a more particular reference to her, from some collateral circumstances.

It is known that various societies were instituted in Great Britain, with the avowed object of reforms in the government. These societies presented addresses to the Convention of France, and received answers, containing an interchange of sentiments justly alarming to the British government.

It will suffice, by way of illustration, to cite passages from two of these answers, each given by the President of the Convention, at a sitting on the 28th of November, one to a deputation from the Society for Constitutional Information in Lon-

don; the other to a deputation of English and Irish citizens at Paris.

"The shades of PENN, of HAMPDEN, and of SYDNEY, hover over your heads, and *the moment without doubt approaches* in which the French will bring congratulations to the NATIONAL CONVENTION OF GREAT BRITAIN."

"Nature and *principles* draw towards us England, Scotland, and Ireland. Let the cries of friendship resound through the two *republics*. Again principles are waging war against tyranny, which will fall under the blows of philosophy. Royalty in Europe is either destroyed or on the point of perishing on the ruins of feodalty; and the declaration of rights placed by the side of *thrones, is a devouring fire which will consume them.* WORTHY REPUBLICANS," &c.

Such declarations to such societies are a comment upon the decree; are in every sense inconsistent with what was due to a just respect for a neutral nation, and amounted to so direct a patronage of a revolution, in the essential principles of its government, as authorized even a declaration of war.

It is true that Mr. Chauvelin, in a note to Lord Grenville, of the 27th of December, 1792, declares that the "National Convention never meant that the French Republic should *favor insurrections*, should espouse the quarrels of a few *seditious persons*, or should endeavor to excite disturbances in any neutral or friendly country; the decree being only applicable to a people, who after having *acquired* their liberty, should call for the *fraternity, the assistance of the Republic*, by the *solemn and unequivocal expression of the general will.*"

But that this explanation could not change the real nature and tendency of the decree, which, holding out a general promise of fraternity and *assistance* to every people who *wished to recover* their liberty, did favor insurrections, was calculated to excite disturbances in neutral and friendly countries.

Still less could it efface the exceptionable and offensive nature of the reception which was given, and the declarations which were made, to the revolutionary or reforming societies of Great Britain.

The answer of Lord Grenville very justly observes, that "Neither satisfaction nor security is found in the terms of an explanation which still declares to the promoters of sedition in every country, what are the cases in which they may count beforehand on the support and succor of France, and what reserves to that country the right of mixing herself in the internal affairs of another, whenever she shall judge it proper, and on principles incompatible with the political institutions of all the countries of Europe."

Besides the declarations which have been mentioned to the different English societies, and which apply particularly to Great Britain, there are other acts of France which were just causes of umbrage and alarm to all the governments of Europe.

Her decree of the 15th of December is one of them. This decree, extraordinary in every respect, which contemplates the total subversion of all the ancient establishments of every country into which the arms of France should be carried, has the following article:

"The French nation declare—That it *will treat as enemies the people, who, refusing or renouncing liberty and equality, are desirous of preserving their prince and privileged casts, or of entering into an accommodation with them.* The nation promises and engages not to lay down its arms until the sovereignty and liberty of the people, on whose territories the French armies *shall have entered*, shall be established, and not to consent to any *arrangement* or *treaty with the prince* and *privileged persons* so dispossessed, with whom the republic is at war."

This decree cannot but be regarded as an outrage little short of a declaration of war against every government of Europe, and as a violent attack upon the *freedom of opinion of all mankind.*

The *incorporation* of the territories conquered by the arms of France with France herself, is another of the acts alluded to, as giving just cause of umbrage and alarm to neutral nations in general. It is a principle well established by the laws of nations, that the property and dominion of conquered places do not become *absolute* in the conquerors, until they have been ceded or relinquished by a treaty of peace or some equivalent termination of the war.

Till then it is understood to be in a state of suspense, (the conqueror having only a possessory and qualified title,) liable to such a disposition as may be made by the compact which terminates the war. Hence the citizen of the neutral nation can acquire no final or irrevocable title to land by purchase of the conqueror during the continuance of the war. This principle, it is evident, is of the greatest importance to the peace and security of nations—greatly facilitating an adjustment of the quarrels in which they happen at any time to be involved.

But the *incorporation* which has been mentioned, and which actually took place with respect to the territories of different powers, Savoy, Antwerp, &c., was a direct violation of that very important and fundamental principle; and of those rights which the laws of war reserve to every power at war; a violation tending to throw insuperable difficulties in the way of peace. After once having adopted those territories *as part of herself*, she became bound to maintain them to the last extremity by all those peremptory rules which forbid a nation to consent to its own dismemberment.

That *incorporation*, therefore, changed entirely the principle of the war on the part of France. It ceased to be a war for the defence of her rights, for the preservation of her liberty. It became a war of acquisition, of extension of territory and dominion, and in a manner altogether subversive of the laws and usages of nations, and tending to the aggrandisement of France, to a degree dangerous to the independence and safety of every country in the world.

There is no principle better supported by the doctrines of writers, the practice of nations, and the dictates of right reason, than this—that whenever a nation adopts maxims of conduct tending to the disturbance of the tranquillity and established order of its neighbors, or manifesting a spirit of self-aggrandisement, it is lawful for other nations to combine against it, and by force to control the effects of those maxims and that spirit. The conduct of France in the instances which have been stated, calmly and impartially viewed, was an *offence* against *nations*, which naturally made it a common cause among them to check her career.

The pretext of propagating liberty can make no difference. Every nation has a right to carve out its own happiness in its own way, and it is the height of presumption in another to attempt to fashion its political creed.

These acts and proceedings are all prior in time to the last aggressive step of Great Britain, the ordering out of the kingdom the person who was charged with a diplomatic mission to that court from the government of France.

The style and manner of that proceeding rendered it undoubtedly an insult, and if the conduct of France before that time had been unexceptionable, the war declared by France, though *offensive* in its nature, would have been justifiable in its motive.

With regard to Spain, the war was likewise declared by France, and is consequently *offensive* on her part. The conduct of the former towards the latter previous to this event, appears not only to have been moderate, but even timid.

The war on the part of Portugal appears to have been *offensive*.

The result from what has been said is, that the war in which France is engaged, is in *fact* an offensive war on her part against all the powers with which she is engaged, except one; and in *principle* to speak in the most favorable terms for her, is *at least* a mixed case—a case of mutual aggression.

The inference from this state of things is as plain as it is important. The *casus faederis* of the guarantee in the treaty of alliance between the United States and France cannot take place, though her West India Islands should be attacked.

The express denomination of this treaty is "Traité d'Alliance *eventuelle* et *defensive*"—Treaty of Alliance *eventual* and *defensive*.

The second article of the treaty also calls it a "*defensive* alliance." This, then, constitutes the leading feature, the characteristic *quality* of the treaty. By this principle every stipulation in it is to be judged.

HAMILTON TO JEFFERSON.

TREASURY DEPARTMENT, May 3d, 1793.

SIR:

I regret extremely that I did not receive your letter respecting Mr. Ternant's application till two o'clock yesterday, after a warrant had issued in his favor for the sum requested.

Agreeing entirely in opinion with you, that all applications from diplomatic characters, as well those relating to pecuniary matters as others, ought to be addressed to your Department, I should have taken no step on the present occasion, had it not been put on the footing of a previous arrangement (as you will perceive by the copy of Mr. Ternant's note to me), and had I not myself carried along in my mind a general impression that the spirit of what had passed would comprise the advance requested in the particular case.

For greater caution, however, I thought it advisable to mention the matter to the President, which was followed (if I remember right, upon my own suggestion,) by the conversation which I had with you.

You will remember, that though your recollection, at the time, of what had passed from you, agreed with what had been the result of your subsequent examination, yet you expressed an opinion, that in the special case (adhering as a general rule to the spirit of your late communication), it ought to be advisable to make the advance desired, as it would be well "*to part friends.*" And it was at my request, subsequent to this declaration, that you engaged to review your communications to Mr. Ternant.

Having told Mr. Ternant that the matter would be terminated the day succeeding his application—not having heard from you on that day—understanding it to be your opinion, that, on the whole, it would be well to make the advance—I waited on the President yesterday morning; stated what had passed between us, and obtained his consent for making the advance.

I am thus particular, from a desire that you may see the

ground upon which I have proceeded, as it would give me pain that you should consider what has been done as the infringement of a rule of official propriety. I assure you this was not my intention.

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HAMILTON TO WASHINGTON.

May 4th, 1793.

The Secretary of the Treasury presents his respects to the President. It has appeared to him, that a circular letter of the inclosed form, to the several collectors, would be a measure of utility. If not disapproved by the President, it will be forwarded.

The inclosed paper is sent, lest the President should not have received it otherwise. It contains intelligence *critically* important, though requiring confirmation.

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WASHINGTON TO HAMILTON.

(PRIVATE.)

PHILADELPHIA, May 5th, 1793.

DEAR SIR:

Before you dispatch the circular letter, of which you inclosed me a copy, to the several collectors, I would speak to you respecting a particular clause in it.

In the conversation you may have with a certain gentleman to-day, I pray you to intimate to him, gently and delicately, that if the letters or papers which he has to present are, knowingly to him, of a nature which relates to public matters, and not particularly addressed to me, or if he has any verbal communications to make of a similar kind, I had rather they should come through the proper channel. Add thereto, generally, that the

peculiar situation of European affairs at this moment—my good wishes for his nation aggregately—my regard for those of it in particular with whom I have had the honor of an acquaintance—my anxious desire to keep this country in peace—and the delicacy of my situation, render a circumspect conduct indispensably necessary on my part. I do not, however, mean by this, that I am to withhold from him such civilities as are common to others. Those more marked, notwithstanding our former acquaintance, would excite speculations, which had better be avoided; and if the gentlemen, similarly circumstanced, could be introduced by any other than himself, especially on Tuesday next, in the public room, when it is presumed the officers of the French frigate will be presented, it would unquestionably be better. But how this can be brought about, as they are strangers, without embarrassment, as the French minister is shy on the occasion, I do not at this moment see; for it may not escape observation, as every movement is watched, if the head of any Department should appear prompt in this business, in the existing state of things.

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### WASHINGTON TO HAMILTON.

PHILADELPHIA, May 7th, 1793.

DEAR SIR:

As I perceive there has been some misconception respecting the building of vessels in our ports which may be converted into armed ones, and as I understand from the Attorney-General there is to be a meeting to-day or to-morrow of the gentlemen on another occasion, I wish to have that part of your circular letter which respects this matter re-considered by them before it goes out.

I am not disposed to adopt any measures which may check ship-building in this country; nor am I satisfied that we should too promptly adopt measures, in the first instance, that are not indispensably necessary. To take *fair* and *supportable* ground, I conceive to be our best policy, and is all that can be required of

us by the powers at war; leaving the rest to be managed according to circumstances and the advantages which may be derived from them. I am always, &c.

*Quer.* Is it not expedient that the District Attorneys should be written to, requiring their attention to the observance of the injunctions of the proclamation?

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HAMILTON TO JEFFERSON.

TREASURY DEPARTMENT, May 9th, 1793.

SIR:

I have this moment received your letter of yesterday. It appears to me, as it does to you, that the position of the Collectors of the Customs will render them the most convenient channel of distribution for the passports; nor do I perceive that it can interfere with their other duties.

It will be equally agreeable to me, that they be transmitted either directly from your office, or through this department. If you prefer the latter, which I shall with pleasure facilitate, I will request you to cause them to be sent in the first instance to me, when I shall put them in the usual course of conveyance. With great respect, I have the honor to be, &c.

P. S. Inclosed is the copy of a letter from the Collector of New-York to Mr. Coxe, of the 7th instant, which is transmitted for your consideration.

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HAMILTON TO WASHINGTON.

May 15th, 1793.

*State of facts as supposed.*

Mr. Genet, Minister Plenipotentiary from the republic of France, arrives in Charleston. There he causes two privateers

to be fitted out, to which he issues commissions to cruise against the enemies of France. There also the privateers are manned, and partly with citizens of the United States, who are enlisted or engaged for the purpose without the privity or permission of the government of this country, before even Mr. Genet has delivered his credentials, or been recognized as a public minister. One or both of these privateers make captures of British vessels in the neighborhood of our coast, and bring or send their prizes into our ports. The British Minister Plenipotentiary, among other things, demands a restitution of these prizes. Ought the demand to be complied with?

I am of opinion that it ought to be complied with, and for the following reasons.

The proceedings in question are highly exceptionable, both as they respect our rights and as they make us an instrument of hostilities against Great Britain.

The jurisdiction of every *independent* nation within its own territories naturally excludes all exercise of authority by any other government within those territories, unless by its own consent, or in consequence of stipulations in treaties. Every such exercise of authority, therefore, not warranted by consent or treaty, is an intrusion on the jurisdiction of the country within which it is exercised, and amounts to an injury and affront, more or less great, according to the nature of the case.

The equipping, manning, and commissioning of vessels of war —the enlisting, levying, or raising of men for military service, whether by land or sea, all which are essentially of the same nature, are among the highest and most important exercises of sovereignty.

It is, therefore, an injury and an affront of a very serious kind, for one nation to do acts of the above description within the territories of another, without its consent or permission.

This is a principle so obvious in itself, that it does not stand in need of confirmation from authorities; yet the following passage from VATTEL, as to one of the points included in the case, is so pertinent and forcible, that it cannot be improper to quote it. It is found Book III., chap. ii., § 15, in these words: "As the right of levying soldiers belongs solely to the nation, so no

person is to enlist soldiers in a foreign country without the permission of the sovereign. They who undertake to enlist soldiers in a foreign country, without the sovereign's permission, and in general, *whoever alienates the subjects of another*, violates one of the *most sacred rights* both of the prince and of the state. Foreign *recruiters are hanged immediately*, and very justly; as it is not to be presumed that their sovereign ordered them to commit the crime; and if they did receive such an order, they ought not to obey it, their sovereign having no right to command what is contrary to the law of nature. It is not, I say, apprehended that these recruiters act by order of their sovereign, and usually they who have practised seduction only are, if taken, severely punished. If they have used violence, and made their escape, they are claimed, and the men they have carried off demanded. *But if it appears that they acted by order, such a proceeding in a foreign sovereign is justly considered as an injury, and as a sufficient cause for declaring war against him, unless he condescends to make suitable reparation.*"

The word soldier, here made use of, is to be understood to mean all persons engaged or enlisted for military service, seamen as well as landsmen. The principle applies equally to the former as to the latter. This, it is imagined, will not be questioned.

In the case under consideration, there was neither treaty nor consent to warrant what was done; and the case is much stronger than a mere levying of men.

The injury and insult to our government, then, under the facts stated, cannot be doubted. The right to reparation follows of course. It remains to inquire whether we are under an obligation to redress any injury which may have accrued to Great Britain from the irregularity committed towards us. The existence of such an obligation is affirmed upon the following grounds:

It is manifestly contrary to the duty of a neutral nation to suffer itself to be made the *instrument of* hostility by one power at war against another. In doing it, such nation becomes an associate, a party.

The United States would become effectually an instrument of

hostility to France against the other powers at war, if France could, *ad libitum*, build, equip and commission, in their ports, vessels of war—man those vessels with their seamen—send them out of their ports to cruise against the enemies of France—bring or send the vessels and property taken from those enemies *into* their ports—dispose of them there; with a right to repeat these expeditions as often as she should find expedient.

By the same rule, that France could do these things—she could issue commissions among us at pleasure for raising any number of troops—could march those troops towards our frontiers—attack from thence the territories of Spain or England—return with the plunder which had been taken within our territories—go again on new expeditions, and repeat them as often as was found advantageous.

There can be no material difference between the two cases—between preparing the means in, and carrying on from our ports naval expeditions, and preparing the means in, and carrying on from our territories land expeditions against the enemies of France. The principle in each case would be the same.

And from both or either would result a state of war between us and those enemies of the worst kind for them, as long as it was tolerated. I say a state of war of the worst kind, because while the resources of our country would be employed in annoying them, the instruments of this annoyance would be occasionally protected from pursuit, by the privileges of our ostensible neutrality.

It is easy to see that such a state of things would not be tolerated longer than till it was perceived; and that we should quickly and with good reason be treated as an associate of the power whose instrument we had been made.

If it is inconsistent with the duties of neutrality, to permit the practices described to an indefinite extent, it must be alike inconsistent with those duties to permit them to any extent. The quality of the fact, not the degree, must be the criterion.

It has indeed been agreed, that we are bound to *prevent* the practices in question in future, and that an assurance shall be given to the British minister, that *effectual measures* will be taken for that purpose.

But it is denied that we are bound to interpose, to remedy the effects, which have hitherto ensued.

The obligation to prevent an injury, usually, if not universally, includes that of repairing or redressing it, when it has happened.

If it be contrary to the duty of the United States as a neutral nation, to suffer cruisers to be fitted out of their ports to annoy the British trade, it comports with their duty to remedy the injury which may have been sustained, when it is in their power so to do.

If it be said that what was done took place before the government could be prepared to prescribe a preventive, and that this creates a dispensation from the obligation to redress, the answer is—

That a government is responsible for the conduct of all parts of a community over which it presides; that it is to be supposed to have at all times a competent police every where to prevent infractions of its duty towards foreign nations; that in the case in question, the magistracy of the place ought not to have permitted what was done, and that the government is answerable for the consequences of its omissions.

It is true that in a number of cases, a government may excuse itself for the non-performance of its duty, on account of the want of time to take due precautions, from the consideration of the thing having been unexpected and unforeseen, &c.; and justice often requires that excuses of this kind, bona fide offered, should be admitted as satisfactory.

But such things are only *excuses*, not *justifications*, and they are only then to be received when a remedy is not within the reach of the party.

If the privateers expedited from Charleston had been sent to the French dominions, there to operate out of our reach, the excuse of want of time to take due precautions, ought to have been satisfactory to Great Britain. But now that they have sent their prizes into our ports, that excuse cannot avail us. We have it in our power to administer a specific remedy, by causing restitution of the property taken; and it is conceived to be our duty

to do so. It is objected to this, that the commissions which were issued, are valid between the parties at war, though irregular with respect to us; that the captures made under it, are therefore valid captures, vesting the property in the captors, of which they cannot be deprived without a violation of their rights, and an aggression on our part.

It is believed to be true that the commissions are in a legal sense valid as between the parties at war. But the inference drawn from this position, does not seem to follow.

It has been seen that what has been done on the part of the French is a violation of our rights, for which we have a *claim to reparation*, and a right to make war, if it be refused. We may reasonably demand then, as the reparation to which we are entitled, restitution of the property taken, with or without an apology for the infringement of our sovereignty. This we have a right to demand, as a species of reparation consonant with the nature of the injury, and enabling us to do justice to the party, in injuring whom we have been made instrumental. It can therefore be no just cause of complaint on the part of the captors, that they are required to surrender a property, *the means of acquiring which took their origin in a violation of our rights.*

On the other hand, there is a claim upon us to arrest the effects of the injury, or annoyance to which we have been made accessory. To insist, therefore, upon the restitution of the property taken, will be to enforce a *right*, in order to the performance of a *duty*.

The effects of captures under the commissions, however valid between the parties at war, have no validity against us. Originating in a violation of our rights, we are nowise bound to respect them.

Why then (it may be asked) not send them to the animadversion and decision of the courts of justice? Because it is believed they are not competent to the decision; the whole is an affair between the governments of the parties concerned, to be settled by reasons of state, not rules of law.

'Tis the case of an infringement of our sovereignty, to the prejudice of a third party; in which the government is to demand a

reparation, with the double view of vindicating its own rights, and doing justice to the suffering party.

A comparison of this case with that of contraband articles can only mislead—a neutral nation has a general right to trade with a power at war. The exception of contraband articles is an exception of necessity; it is a qualification of the general right of the neutral nation in favor of the safety of the belligerent party. And from this cause, and the difficulty of tracing it, in the course of commercial dealings, that for the peace of nations, the external penalty of confiscation is alone established. The neutral nation is only bound to abandon its subjects to that penalty, not to take internal measures to prevent and punish the practice. The state of peace between two nations, on the other hand, makes it intrinsically criminal in either nation, or in the subjects of either, to engage in actual hostilities against the other. The sovereign of each nation is bound to prevent this by internal regulations and measures; and of course to give redress where the offence has been committed.

What has been agreed to be done in the present case, acknowledges the distinction and establishes the consequences. While it was refused to interfere to prevent the shipment of arms, it has been agreed that measures should be taken towards punishing our citizens who engaged on board the privateers; and to assure the British Minister that effectual measures would be taken, to prevent a repetition of the thing complained of. Hence a recognized distinction of principle, and a virtual recognition of the consequences contended for.

As little to the purpose is the example of cases in which particular nations permit the levying of troops among them by the parties at war. The almost continually warlike posture of Europe, can alone have produced the toleration of a practice so inconsistent with morality and humanity; but allowing these examples their full force; they are at an *infinite distance*, from the case of raising, equipping, and organizing, within the neutral territory an armed force—sending it on expeditions against a party at war, and bringing back their spoils into the neutral country.

If the view which has been taken of the subject, be a just one,

Great Britain will have a right to consider our refusal to cause restitution to be made, as equivalent to our becoming an accomplice in the hostility—as a departure from neutrality—as an aggression upon her. Hence we shall furnish the cause of war, and endanger the existence of it.

I infer then, that we equally owe it to ourselves, and to Great Britain, to cause restitution to be made of the property taken. In the case of so palpable and serious a violation of our rights, aggravated by several collateral circumstances, the mention of which is purposely waived, a decided conduct appears most consistent with our honor, and with our future safety.

A. HAMILTON.

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### JEFFERSON TO WASHINGTON.

May 16, 1793.

The facts suggested, or to be taken for granted, because the contrary is not known, in the case now to be considered, are, that a vessel was purchased at Charleston, and fitted out as a privateer by French citizens, manned with foreigners chiefly, but partly with citizens of the United States, the command given to a French citizen by a regular commission from his government, that she has made prize of an English vessel in the open sea, and sent her into Philadelphia. The British minister demands restitution, and the question is whether the Executive of the United States shall undertake to make it?

This transaction may be considered, 1st, as an offence against the United States; 2d, as an injury to Great Britain.

In the first view it is not now to be taken up, the opinion being that it is an act of disrespect to the jurisdiction of the United States, of which proper notice is to be taken at a proper time.

Under the second point of view, it appears to me wrong on the part of the United States (where not constrained by treaties),

to permit one party in the present war to do what cannot be permitted to the other. We cannot permit the enemies of France to fit out privateers in our ports, by the twenty-second article of our treaty; we ought not, therefore, to permit France to do it, the treaty leaving us free to refuse, and the refusal being necessary to preserve a fair and secure neutrality. Yet considering that the present is the first case which has arisen, that it has been in the first moment of the war, in one of the most distant ports of the United States, and before measures could be taken by the government to meet all the cases which may flow from the infant state of our government and novelty of our position, it ought to be placed by Great Britain among the accidents of loss to which a nation is exposed in a state of war, and by no means as a premeditated wrong on the part of the government. In this last light it cannot be taken, because the act from which it results, placed the United States with the offended, and not the offending parties. Her minister has seen himself that there could have been on our part neither permission nor connivance. A very moderate apology then from the United States ought to satisfy Great Britain. The one we have made already is ample, to wit, a pointed disapprobation of the transaction, a promise to prosecute and punish according to law such of our citizens as have been concerned in it, and to take effectual measures against a repetition. To demand more, would be a wrong in Great Britain: for to demand satisfaction *beyond* what is adequate, is a wrong: but it is proposed further to take the prize from the captors and restore her to the English. This is a very serious proposition.

The dilemma proposed in our conferences, appears to me unanswerable. Either the commission to the commander of the privateer was good, or not good. If not good, then the tribunals of the country will take cognizance of the transaction, receive the demand of the former owner, and make restitution of the capture: and there being, on this supposition, a regular remedy at law, it would be irregular for the government to interpose. If the commission be good, then the capture having been made on the high seas, under a valid commission from a power at war with Great Britain, the British owner has lost all his right,

and the prize would be deemed good even in his own courts, were the question to be brought before his own courts; he has no more claim on the vessel than any stranger would have who never owned her, his whole right being transferred by the law of war to the captor.

The legal right then being in the captor, on what ground can we take it from him? Not on that of *right*, for the right has been transferred to him. It can only be by an act of *force*, that is to say, of reprisal for the offence committed against us in the port of Charleston. But the making reprisal on a nation is a very serious thing. Remonstrance and refusal of satisfaction ought to precede; and when reprisal follows, it is considered as an act of war, and never yet failed to produce it in the case of a nation able to make war. Besides, if the case were important enough to require reprisals, and ripe for that step, Congress must be called on to take it; the right of reprisal being expressly lodged with them by the Constitution, and not with the Executive.

I therefore think that the satisfaction already made to the government of Great Britain is quite equal to what ought to be desired in the present case; that the property of the British *owner* is transferred by the laws of war to the *captor;* that for us to take it from the captor would be an act of force or reprisal which the circumstances of the case do not justify, and to which the powers of the Executive are not competent by the Constitution.

TH. JEFFERSON.

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## RANDOLPH TO WASHINGTON.

May 17, 1793.

The Attorney-General has the honor of submitting to the President the following opinion:

It appears that a privateer has been equipped and commissioned at Charleston, in South Carolina, under the authority of the French government, and was at the same time manned in

part by American citizens; that on the high seas she captured an English vessel; and that both of them are now in the port of Philadelphia.

Restitution is demanded by the British Minister from the Executive.

If this be considered as a contest between France and Great Britain, upon a mere question of prize or no prize, the 17th article of our treaty with the former stands in the way of the inquiry; because it prohibits the officers of the United States "*from making examination concerning the lawfulness of such prizes;*" and indeed the duty of a neutral nation shuts up its courts against all such decisions.

It is therefore insisted, that something more than a mere question of prize or no prize has arisen; namely, that as the commission was granted, and the privateer fitted out, and partly manned with American citizens, within the United States, there is an obligation on them to restore.

Is the commission void as to the enemy? No; because the etiquette of the place of granting it has never been heard of, as an available plea, in their mouths; and because if it had ever been suspended during the stay of the vessel at Charleston, it became active and lawful at the very moment that the privateer entered upon the high sea. This aspect then of the case presents no hope of restitution.

Let it be supposed, on the other hand, that the commission was absolutely void. Of course the capture would be annulled. But by whom? Not by the President; since the courts of the United States are competent to adequate relief; and proceeding according to the rules of the admiralty, they would consummate the business with no great expense of time.

But let a further supposition be made; that the commission was good in part, and bad in part, or in other words, that, while it would have authorized the capture, if only the enemy were concerned, it was an affront and injury to the United States, to grant it without their leave in their territory; nay more, that the capture has been the consequence of this improper conduct in our country, and of the enlistment of our own citizens.

What relates to the dignity of the United States, is not an affair of any foreign nation. If they thought proper to waive satisfaction to themselves for the affront and injury, they cannot be called to an account by any foreign power; and if they do require satisfaction, its degree and kind depend upon their discretion. But it has been unanimously agreed to advise the President to direct a remonstrance to Mr. Genet against what is past, and a repetition of it in future, so that the dignity of the government will be asserted.

The punishment of the citizens who have entered on board of the privateer may, in some measure, be a justice due to the powers warring against France. Accordingly the President is also unanimously advised, that the prosecutions be instituted, as far as the law will go. If the person who received the commission be a citizen, he is a pirate under the treaty with Holland. The rest of the crew, who may be citizens, are conceived by a majority of the gentlemen to be guilty of a misdemeanor; and all of them are of opinion, that in a doubtful point, which cannot be ascertained too soon, the sentiments of some court ought to be immediately obtained. For, although the experiment should miscarry, it will vindicate the sincerity of our neutrality.

The only remaining ground, upon which restitution has been pressed, is, that for this unlawful act, thus begun in our territory, and completed with the assistance of our own citizens, the United States are answerable to Great Britain. It has not been denied, that, as between the French captor and the British owner, the capture is lawful; nor can it be affirmed, that the United States are in any other manner, responsible for the offences of their citizens, than to bring them to punishment. To say then that Great Britain can impose upon the United States a certain rule and measure of procuring satisfaction for the insult by requiring the surrender of the vessel and restitution to the British subject, is to admit an unwarrantable intrusion into their internal police. If the omission to demand the vessel be a cause of offence, it must be, because the acquiescence of the United States in a too moderate retribution will indicate a partiality in the temper of the United States. Should this be suspected, notwithstanding

the real proofs to the contrary, it may be repelled by other considerations. France has her rights as well as Great Britain. Although she will be content to offer concessions to the United States, yet might she justly refuse to do so, if our estimate of the reparation was compounded, not only of the indignity to them, but also of the loss to the British subject. At least she might with reason denominate it a departure from strict neutrality. It may deserve attention too, what infinite trouble the United States would carve out to themselves, if they once commence the office of adjusting the validity of commissions between the warring powers. If a commission, perfect in every thing, except the place of issuing it, be a ground of restitution, it will be an easy matter to stretch the authority of the United States by little and little, until they become self-constituted into a tribunal for deciding the validity of prizes: a function, which is utterly inadmissible to a neutral nation.

The situation of the United States is extremely peculiar. They are bound to pursue a different conduct to the different warring powers. To France, they must give the preference by treaty; to Holland, they must assign the next rank of favor by treaty; Great Britain stands upon the law of nations, pure and unqualified. Hence in this disparity of relations they will be often thrown into great perplexities. Nothing can lead them with safety and honor through the labyrinth, but an adherence to sound principle, which is always uniform.

Upon principle therefore, restitution ought not, in my judgment, to be attempted.

EDM. RANDOLPH.

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### HAMILTON TO WASHINGTON.

May 25, 1793.

The Secretary of the Treasury presents his respects to the President; submits the draft of an Act relative to the points lately determined upon by the President.

*By the President of the United States.*

An Act making allowance for certain services and contingencies in the collection of the Revenue during the year ending on the 30th day of June, 1792.

Whereas it has been found necessary to provide a compensation for the legal admeasurement of Stills during the year ending on the 30th day of June, 1792, it is hereby established and declared, that there may and shall be allowed to the Collectors of the Revenue on spirits distilled in the United States and upon Stills, for each and every Still by them respectively measured according to law on or before the said 30th day of June, 1792, the sum of thirty cents.

And whereas it has also been found necessary that certain services and expenses of divers officers of inspection, and persons actually employed in the business of the Revenue which have unavoidably arisen out of the first operations of the Act of the 3d day of March, 1791, and in the year aforesaid, and certain compensations to the same should be allowed and defrayed.

The Supervisors of the Revenue for the several Districts hereinafter mentioned are hereby authorized to allow to the officers and persons employed within their respective Districts, for services and duties actually by them performed, and expenses paid during the year aforesaid, and not yet compensated or defrayed, the sums set against the said Districts respectively—that is to say—

| | | |
|---|---|---|
| In the District of South Carolina a sum not exceeding | 600 | dollars, |
| In the District of North Carolina, - - - - - | 100 | " |
| In the District of Virginia, - - - - - - - | 350 | " |
| In the District of Maryland, - - - - - - - | 150 | " |
| In the District of Delaware, - - - - - - | 150 | " |
| In the District of Pennsylvania, - - - - - - | 300 | " |
| In the District of New-York, - - - - - - | 400 | " |
| In the District of Connecticut, - - - - - - | 200 | " |

Given under my hand at Philadelphia on the 25th day of May, 1793.

GEO. WASHINGTON.

## CABINET OPINION.

May 29th, 1793.

The President of the United States having assembled the heads of the respective departments and the Attorney General, laid before them for their advice thereon, sundry communications from the Governor of Georgia, and others, relatively to the recent alarming depredations of the Creek Indians upon the State of Georgia.

Whereupon after the subject was maturely considered and discussed, it was unanimously advised,

That the Governor of Georgia be informed that from considerations relative to foreign powers, and the pending treaty with the Northern Indians, it is deemed advisable for the present, to avoid offensive expeditions into the Indian country. But from the nature of the late appearances, it is thought expedient to increase the force to be kept up for defensive purposes. The President therefore authorizes the calling into, and keeping in service, in addition to the troops heretofore stationed in Georgia, one hundred horse, and one hundred infantry, to be employed in repelling inroads, as circumstances shall require. As it does not yet appear that the whole nation of the Creeks is engaged in hostility, it is considered that this force will be sufficient for the object designated. The case of a serious invasion of the territory of Georgia, by large bodies of Indians, must be referred to the provisions of the Constitution. The proceeding with efficacy in future, requires absolutely, that no unnecessary expense should be incurred in the mean time.

The above corps of horse to be raised for any period of time, not exceeding twelve months, as may be found most practicable; subject to be dismissed at any time sooner, as the government may think fit. The infantry to be called into service, according to the course of the militia laws, endeavoring to secure their continuance in service for the like term.

That General Pickens be invited to repair to the seat of government, for the purpose of information and consultation—a

proper compensation for his expenses and loss of time to be allowed.

That a further supply of one thousand arms, with correspondent accoutrements, be forwarded to the State of Georgia. Arms and accoutrements for the cavalry to be also provided and forwarded.

That an agent be sent to the Creeks, to endeavor to adjust the surrender of those Indians who have lately committed murders on the citizens of Georgia; to conciliate and secure such of the Indians as may be well-disposed to the United States, in the event of a war with the Creek nation; and, if possible, to prevent that extremity.

TH. JEFFERSON,
H. KNOX,
EDM. RANDOLPH,
ALEXANDER HAMILTON.

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CABINET OPINION.

June 1, 1793.

That an agent be sent to the Choctaw nation, to endeavor secretly to engage them to support the Chickasaws in their present war with the Creeks—giving them, for that purpose, arms and ammunition sufficient; and that it be kept in view, that if we settle our differences amicably with the Creeks, we at the same time mediate effectually the peace of the Chickasaws and Choctaws; so as to rescue the former from the difficulties in which they are engaged, and the latter from those into which we may have been instrumental in engaging them.

TH. JEFFERSON,
H. KNOX.

Although I approve of the general policy of employing Indians against Indians, yet I doubt, greatly, whether it ought to be exercised under the particular existing circumstances with

Spain; who may hold herself bound to take the part of the Creeks, and criminate the United States for some degree of insincerity.

EDM. RANDOLPH.

My judgment balanced a considerable time on the proposed measure; but it has at length decided against it, and very materially, on the ground, that I do not think the United States can honorably or morally, or with good policy, embark the Choctaws in the war, without a determination to extricate them from the consequences, even by force. Accordingly it is proposed, that in settling our differences with the Creeks, "we *mediate effectually* the peace of the Chickasaws and Choctaws;" which I understand to mean, that we are to insist with the Creeks on such terms of peace for them as shall appear to us equitable; and if refused, will exert ourselves *to procure them by arms.* I am unwilling, all circumstances foreign and domestic considered, to embarrass the government with such an obligation.

ALEXANDER HAMILTON.

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## HAMILTON TO JEFFERSON.

TREASURY DEPARTMENT, June 8d, 1793.

SIR:

It was not till within an hour that I received your letter of the 1st, with the papers accompanying it. I approve all the drafts of letters as they stand, except that I have some doubts about the concluding sentence, of that on the subject of HENFIELD. If the *facts* are (as I presume they are) established, may it not be construed into a wish, that there may be found no law to punish a conduct in our citizens, which is of a tendency dangerous to the peace of the nation, and injurious to powers with whom we are on terms of peace and neutrality?

I should also like to substitute, for the words, "have the favorable issue you desire," these words, "issue accordingly."

I retain, till to-morrow, the paper relating to an agent to the Choctaws. My judgment is not entirely made up on the point—the state of my family and my own health having prevented due reflection upon it.

With great respect, I have the honor to be, &c.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, June 8, 1793.

SIR:

The failure of the late enterprise against the United Netherlands, may be expected to have made a favorable alteration in regard to the prospect of obtaining loans there for the United States. Such an expectation is also countenanced by a late letter from our bankers at Amsterdam, which, however, as yet gives no certainty that can be a basis of operation.

The existing instructions from the department do not extend beyond three millions of florins. A comprehensive view of the affairs of the United States in various relations, appears to me to recommend a still further loan, if attainable. Yet I do not think it advisable to take that step, in virtue of the general powers from you, without your special approbation, particularly as there is little probability that the loan can be effected on better terms than five per cent. interest, and four per cent. charges. The further loan which I should contemplate, would embrace three millions florins.

With perfect respect and truest attachment, I have the honor to be, &c.

JEFFERSON TO WASHINGTON.

June 5, 1793.

Instructions having been given to borrow two millions of florins in Holland, and the Secretary of the Treasury proposing to open a further loan of three millions of florins, which he says "a comprehensive view of the affairs of the United States in various relations appear to recommend," the President is pleased to ask whether I see any objections to the proposition.

The power to borrow money is confided to the President by the two acts of the 4th and 12th of August, '90; and the moneys when borrowed, are appropriated to two purposes only, to wit: the twelve millions to be borrowed under the former, are appropriated to discharge the arrears of interest and instalments of the foreign debt, and the two millions under the latter to the purchase of the public debt, under the direction of the Trustees of the Sinking Fund.

These appropriations render very simple the duties of the President in the discharge of this trust. He has only to look to the payment of the foreign debt, and purchase of the general one; and in order to judge for himself of the necessity of the loan proposed for effecting these two purposes, he will need from the Treasury the following statements:

A. A statement of the nett amount of the loans already made under these acts, adding to that the two millions of florins now in a course of being borrowed. This will form the debit of the trust. The credit side of the account will consist of the following statements, to wit:

B. Amount of the principal and interest of foreign debt paid and payable to the close of 1792.

C. Ditto, payable to the close of 1793.

D. Ditto, payable to the close of 1794, (for I think our preparations should be a year beforehand.)

E. Amount of moneys necessary for the sinking fund to the end of the year 1794.

If the amount of the four last articles exceeds the first, it will

prove a further loan necessary to that extent. The Treasury alone can furnish these statements with perfect accuracy; but to show that there is probable cause to go into the examination, I will hazard a statement from materials, which though not perfectly exact, are not much otherwise. [Statement.]

By this statement it would seem as if all the payments to France, hitherto made and ordered, did not quite acquit the year 1792, so that we have never yet been clear of arrears to her. The amount of the French debt is stated according to the Convention, and the interest is calculated accordingly. Interest on the ten million loan is known to have been paid for the years '84, '85, and is therefore deducted. It is not known whether it was paid in the same loan for the years '86, '7, '8, '9, previous to the payment of December 3d, '90, or whether it was included in that payment. Therefore this is not deducted; but if in fact it was paid before that day, it will then have lessened the debt so much, to wit, 400,000 livres a year for four years, making it 1,600,000 livres—290,000 dollars, which sum would put us in advance near half of the instalments of 1793. Note. Livres are estimated at $18\frac{19}{20}$ cents, proposed by the Secretary of the Treasury to the French ministry as the par of the metals, to be the rate of conversion.

This uncertainty with respect to the true state of the account with France, and the difference of the result from what has been understood, shows that the gentlemen who are to give opinions on this subject, must do it in the dark, and suggests to the President the propriety of having an exact statement of the account with France communicated to them, as the ground on which they are to give opinions. It will probably be material in that about to be given on the late application of Mr. Genet, on which the Secretary is preparing a report.

## HAMILTON TO WASHINGTON.

June 5th, 1798.

The Secretary of the Treasury, to whom were referred by the President of the United States, sundry documents communicated by the Minister Plenipotentiary of the Republic of France, respectfully makes the following report thereupon:

The object of the communication appears to be to engage the United States to enter into arrangements for discharging the residue of the debt which they owe to France by an *anticipated* payment of the instalments not yet due, either in specie, bank bills of equal currency with specie, or in government bonds, bearing interest, and payable at certain specified periods, upon condition that the sum advanced shall be invested in productions of the United States for the supply of the French dominions.

This object is the same which came under consideration on certain propositions lately made by Col. W. S. Smith, who appeared to have been charged by the Provisional Executive Council of France with a negotiation concerning it; in reference to which it was determined by the President, with the concurring opinions of the heads of departments, and the Attorney-General, that the measure was ineligible, and that the proposer would be informed that it did not consist with the arrangements of the government to adopt it.

The grounds of the determination were purely political—nothing has hitherto happened to weaken them. The decision on the application of the Minister Plenipotentiary of France, will therefore naturally correspond with that on the propositions of Col. Smith. This, indeed, is signified to be the intention of the President.

It consequently only remains to make known the determination to the minister, in answer to his application, with or without reasons.

The following considerations seem to recommend a simple communication of the determination without reasons, viz.:

I. The United States not being bound by the terms of their

contract to make the anticipated payments desired—there is no necessity for a specification of the motives for not doing it.

II. No adequate reasons but the true ones can be assigned for the non-compliance, and the assignment of these would not be wholly without inconvenience. The mention of them might create difficulties in some future stage of affairs, when they may have lost a considerable portion of their force.

The following answer in substance, is presumed then to be the most proper which can be given:

"That a proposition to the same effect was not long since brought forward by Col. Smith, as having been charged with a negotiation on the subject, by the Provisional Executive Council of France. That it was then, upon full consideration, concluded not to accede to the measure, for reasons which continue to operate, and consequently lead at this time to the same conclusion, that an explanation of these reasons would with pleasure be entered into, were it not for the considerations that it could have no object of present utility, and might rather serve to occasion embarrassments in future."

Which is humbly submitted.

A. HAMILTON.

The above having been communicated by the President to me, I wrote the following letter.

THOMAS JEFFERSON.

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### JEFFERSON TO WASHINGTON.

June 6, 1793.

SIR:

I cannot but think that to decline the propositions of Mr. Genet, on the subject of our debt, without assigning any reason at all, would have a very dry and unpleasant aspect indeed. We are then to examine what are good reasons for the refusal, which of them may be spoken out, and which not.

1. Want of confidence in the continuance of the present form of government, and consequently the *advance* to them might commit us with their successors. This cannot be spoken out.

2. They propose to take the debt in produce. It would be better for us that it should be done in moderate masses, yearly, than in one year. This cannot be professed.

3. When Mr. de Calonne was Minister of Finance, a Dutch Company proposed to buy up the whole of our debt, by dividing it into actions or shares. I think Mr. Claviere, now Minister of Finance, was their agent. It was observed to Mr. De Calonne, that to create such a mass of American paper, divide it into shares, and let them deluge the market, would depreciate them, the rest of our paper, and our credit in finance; that the credit of a nation was a delicate and important thing, and should not be risked in such an operation. Mr. De Calonne, sensible of the injury of the operation to us, declined it. In May, 1791, there came through Mr. Otto a similar proposition from S. J. & Co. We had received letters on the subject from Mr. Short, urging this same reason strongly. It was referred to the Secretary of the Treasury, who in a letter to yourself, assigned the reasons against it, and these were communicated to Mr. Otto, who acquiesced in them. This objection then having been sufficient to decline the proposition twice before, and having been urged to the two preceding forms of government (the ancient, and that of 1791), will it not be considered by them as founded in objections to the present form?

4. The law allows the whole debt to be paid only on condition it can be done on terms *advantageous* to the United States. The minister foresees this objection, and thinks he answers it by observing the *advantage* which the payment in produce will occasion. It would be easy to show that this was not the sort of advantage the legislature meant, but *a lower rate of interest.*

5. I cannot but suppose that the Secretary of the Treasury, who is much more familiar than I am with the money operations of the Treasury, would, on examination, be able to derive practical objections from them. We pay to France but five per cent. The people of this country would never subscribe their money but for six. If to remedy this obligation at less than five per

cent. were offered and accepted by Mr. Genet, he must part with them immediately at a considerable discount to indemnify the loss of the one per cent., and at a still greater discount, to bring them down to par with our present six per cents., so that the operation would be equally disgraceful to us and losing to them, &c., &c.

I think it very material myself to keep alive the friendly sentiments of that country, as far as can be done, without risking war or double payments. If the instalments falling due in this year, can be advanced without incurring more dangers, I should be for doing it. We now see by the declaration of the Prince of Saxe Coburg, on the part of Austria and Prussia, that the ultimate point they desire is to restore the Constitution of 1791. Were this even to be done before the pay days of this year, there is no doubt in my mind but that that government (as republican as the present except in the form of its Executive) would confirm an advance so moderate in sum and time.

I am sure the *nation* of France would never suffer their government to go to war *with us* for such a bagatelle, and the more surely if that bagatelle shall have been granted by us so as to *please* and not to *displease* the nation, so as to keep their affections engaged on our side; so that I should have no fear in advancing the instalments of this year at epochs convenient to the Treasury, but at any rate I should be for assigning reasons for not changing the form of the debt.

These thoughts are very hastily thrown on paper, and will be but too evident. I have the honor to be, with sentiments of sincere attachment and respect, sir,

Your most obedient and most humble servant,

TH. JEFFERSON.

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### HAMILTON TO WASHINGTON.

The President concurring with the preceding letter, and so signifying to Col. Hamilton, he erased the words, "which is

humbly submitted," in the former report, and added in the same paper as follows:

"If, nevertheless, the President should be of opinion that reasons ought to be assigned, the following seem to be the best which the nature of the case will admit, viz.:

"Two modes of reimbursing or discharging by *anticipation* the residue of the debt which the United States owe to France, are proposed.

"The first, by a payment in specie, or bank bills having currency equal with specie, which amounts to the same thing.

"The second, by government bonds, bearing interest, and payable at certain specified periods.

"With regard to the first expedient, the resources of the Treasury of the United States do not admit of its being adopted. The government has relied for the means of reimbursing the foreign debt of the country on loans to be made abroad; the late events in Europe have thrown a temporary obstacle in the way of these loans, producing an inability to make anticipated payments of sums hereafter to grow due.

"With regard to the second expedient, it has repeatedly come under consideration, and has uniformly been declined as ineligible. The government has perceived and continues to perceive great inconvenience to its credit, tending to the derangement of its general operations of finance, in every plan which is calculated to throw suddenly upon the market a large additional sum of its bonds. The present state of things, for obvious reasons, would serve to augment the evil of such a circumstance; while the existing and possible exigencies of the United States admonish them to be particularly cautious, at the present juncture, of any measure which may in any degree serve to impair or hazard their credit.

"These considerations are the more readily yielded to, from a belief that the utility of the measure to France might not, on experiment, prove adequate to the sacrifices which she would have to make on the sale of the bonds.

"All which is humbly submitted."

This being put into my hands by the President, I wrote the following note.

### JEFFERSON TO WASHINGTON.

January 17, 1793.

Th. Jefferson has the honor of returning to the President the Report of the Secretary of the Treasury on the proposition of Mr. Genet. He is of the opinion that all may be omitted which precedes the words, "Two modes of reimbursing," &c., which follows "of the reasons that are proper and not offensive." The following passage should perhaps be altered: "It has repeatedly come under consideration, and has uniformly been declined as ineligible." The present proposition varies from that repeatedly offered in the circumstances which are of some importance, and is accordingly made by the minister, viz., the offer to take the in the produce of the United States. A very slight alteration will qualify this expression—thus to the fact without abating the force of the argument.

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### WASHINGTON TO HAMILTON.

PHILADELPHIA, June 6th, 1793.

SIR:

Upon a mature consideration of your communication to me of the 3d instant, recommending a still further loan in Holland, if obtainable, to the amount of 3,000,000 florins, and stating that in case the recommendation should meet my ideas, my special approbation thereof would be proper; I have thought it necessary, in order to make the subject clear to my mind before any steps are taken in it, to request you to give me information on the following points, viz.:

1st. Whether all the moneys borrowed under the acts of the 4th and 12th of August, 1790, have been expended on their respective objects? If not, what is the balance?

2d. Under which of the two laws do you propose that a loan should be opened?

3d. If under one or the other, or both, what is the balance remaining unborrowed of the two sums allowed to be borrowed?

4th. To what use is the money proposed to be borrowed, to be applied?

GEORGE WASHINGTON.

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HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, 8th June, 1793.

SIR:

I have the honor to send you a report on the communication from the Minister Plenipotentiary of France, respecting the reimbursement of the residue of the debt of the United States to that country, altered in conformity to your desire; and to be, with perfect respect, &c.

ALEXANDER HAMILTON.

TREASURY DEPARTMENT, June 8th, 1793.

The Secretary of the Treasury, to whom was referred a communication from the Minister Plenipotentiary of the Republic of France, on the subject of the debt of the United States to France, respectfully makes thereupon the following report:

The object of this communication is to engage the United States to enter into an arrangement for discharging the residue of the debt which they owe to France by an *anticipated payment* of the instalments not yet due, either in specie or bank bills of equal currency with specie, or in government bonds bearing interest and payable at certain specified periods, upon condition that the sum advanced shall be invested in productions of the United States for the supply of the French dominions.

With regard to the first expedient, namely, a payment in specie or bank bills, the resources of the Treasury of the United States do not admit of its being adopted. The government has relied for the means of reimbursing its foreign debt on new loans

to be made abroad. The late events in Europe have thrown a temporary obstacle in the way of these loans—producing consequently an inability to make payment, by anticipation of the residue of the debt hereafter to grow due.

With regard to the second expedient, that of government-bonds payable at certain specified periods, this in substance, though in other forms, has repeatedly come under consideration, and has as often been declined as ineligible. Great inconveniences to the credit of the government, tending to derange its general operations of finance, have been and must continue to be perceived, in every plan which is calculated to throw suddenly upon the market a large additional sum of its bonds. The present state of things, for obvious reasons, would serve to augment the evil of such a circumstance; while the existing and possible exigencies of the United States admonish them to be particularly cautious, at this juncture, of any measure which may tend to hazard or impair their credit.

These considerations greatly outweigh the advantage, which is suggested as an inducement to the measure, (the condition respecting which, is the principal circumstance of difference between the present and former propositions,) to arise from an investment of the sum to be advanced in the products of the country; an advantage on which perhaps little stress can be laid, in the present and probable state of foreign demand for those products.

The motives which dissuade from the adoption of the proposed measure, may, it is conceived, be the more readily yielded to from the probability that the utility of it to France might not, on experiment, prove an equivalent for the sacrifices, which she might have to make in the disposition of the bonds.

## HAMILTON TO JEFFERSON.

TREASURY DEPARTMENT, June 10, 1793.

SIR:

The Comptroller of the Treasury has reported to me, that on examining the subsisting contracts between the United States and the government of France and the Farmers General, and a comparison thereof with the foreign accounts and documents transmitted to the Treasury, the following facts appear.

That previous to the treaty of February, 1778, the sum of three millions of livres had been advanced by the government of France to the agents of the United States, under the title of *gratuities*, for which no reimbursement was to be made.

That the payments, which composed the before-mentioned sum of three millions of livres, are stated, in a letter of Mr. Durival to Mr. Grand, dated in 1786, to have been made at the following periods:

One million delivered by the Royal Treasury the 10th of June, 1776, and two other millions advanced also by the Royal Treasury in 1777, on four receipts of the Deputies of Congress, of the 17th of January, 3d of April, 10th of June, and 15th of October of the same year.

In the accounts of Mr. Ferdinand Grand, banker of the United States, the following sums are credited, viz.

| | |
|---|---|
| 1777, January 31, | 500,000 livres. |
| April 26, | 500,000 |
| June 4, | 1,000,000 |
| July 3, | 500,000 |
| October 10, | 500,000 |
| Amount in the whole, | 3,000,000 livres. |

The Farmers General of France claim a large balance from the United States, on account of one million of livres, which they contend was advanced in June, 1777, in consequence of a special contract with Messrs. Franklin and Deane, to be repaid by the delivery of tobacco at certain stipulated prices, and the

advance made by the Farmers General is said to be the same money as is credited by Mr. Grand on the 4th of June, 1777.

After a careful examination of the foreign accounts, it is found that no more than three millions of livres have been credited by any agent of the United States.

An opinion was entertained by the late officers of the Treasury, that the sum claimed by the Farmers General composed a part of the sum supplied as gratuitous aid by the government. Subsequent explanations have, however, rendered it probable, that including the claim of the Farmers General, the sum of four millions of livres were in fact received; it is, however, indispensable that it should be known to whom the money was paid.

The most direct mode of obtaining this information will be, to call for copies of the receipts mentioned in Mr. Durival's letter of 1786, and more particularly a copy of that said to have been given on the 10th of June, 1776.

And as explanatory of the transaction, he has sent me the documents herewith transmitted.

The most likely conjecture, in my mind, considering the period of the advance, and the circumstances of that period, is, that the unaccounted for million went into the hands of M. de Beaumarchais. The supplies which he furnished to the United States exceeded his own probable resources, besides the imprudence of having hazarded so much at that stage of our affairs upon our ability to pay. And there were many symptoms, at the time, of his having been secretly put in motion by the government.

It has now become urgent that the truth of the case should be known. An account has recently passed the auditor's office, admitting in favor of M. de Beaumarchais a balance of four hundred and twenty-two thousand two hundred and sixty-five dollars and thirteen cents, with a reservation only of the question of the million. If he has received that million which has been acknowledged as a free gift from the French government, it is unjust that he should be able to establish a claim against the United States for supplies which must have been the proceeds of that sum. If he has never received the million, every day's suspension of his claim, after the immense delays heretofore incurred, is

a grievous hardship upon him. It concerns materially the interests, and more the justice, the credit, and the character of the United States, that as speedy a solution as possible of the enigma may be obtained.

With a view to this, I have the honor to make you the present communication, that you may be pleased to take such steps as shall appear to you the most proper and efficacious to procure, as speedily as the nature of the case will admit, the requisite explanations.

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### CABINET OPINION.

June 12, 1793.

The President having required the opinions of the heads of the three departments on a letter from Governor Clinton of the 9th inst., stating that he had taken possession of the sloop Polly, now called the Republican, which was arming and equipping and manning by French and other citizens to cruise against some of the belligerent powers, and desiring to know what further was to be done, and they having met and deliberated thereon, are unanimously of opinion that Governor Clinton be desired to deliver over to the civil power the said vessel and her appurtenances, to be dealt with according to law; and that the Attorney of the United States for the district of New-York be desired, to have such proceedings at law instituted as well concerning the said vessel and her appurtenances, as against all the persons, citizens, or aliens participating in the armament or object thereof, as he shall think will be most effectual for punishing the said offenders, and preventing the said vessel and appurtenances from being applied to the destined purpose; and that if he shall be of opinion that no judiciary process will be sufficient to prevent such application of the vessel to the hostile purpose intended, that then the Governor be desired to detain her by force till the further advice of the general government can be taken.

The President having also required the same opinions on the memorial of the British Minister of the 11th inst., on the subject of the British brigantine Catharine, captured by the French frigate the Embuscade within the limits of the protection of the United States, as is said, and carried into the harbor of New York, they are of opinion unanimously, that the Governor of New York be desired to seize the said vessel in the first instance, and then deliver her over to the civil power, and that the Attorney of the United States for the District of New York be instructed to institute proceedings at law in the proper court, for deciding whether the said capture was made within the limits of the protection of the United States, and for delivering her up to her owners if it be so decided; but that if it shall be found that no court may take cognizance of the said question, then the said vessel to be detained by the Governor until the further orders of the general government can be had thereon. '

TH. JEFFERSON,
H. KNOX,
ALEXANDER HAMILTON.

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## HAMILTON TO WASHINGTON.

(PRIVATE.)

PHILADELPHIA, June 15th, 1793.

SIR:

The inclosed report will, I trust, make it appear, that there are good reasons relative to the execution of the purposes specified in the laws for making a further loan to the extent proposed.

But, bottoming the proceeding upon the direct object of the laws, as the legal and primary inducement, it appears to me justifiable and wise to embrace, as secondary and collateral motives, the probable operation of the measure on the public interests, in ways not immediately indicated in the laws. On

this ground, I think the legal considerations for a further loan are enforced by the general state of affairs at the present juncture.

Should a general Indian war ensue, and, still more, should we unfortunately be involved in a European war, nothing could be more convenient than to have anticipated such a resource, which the legislature might apply to the new exigencies, as far as regards the purchase of the debt, without any violation of principle.

In the event of a European war breaking out, it would probably be too late to attempt what, beforehand, would be practicable without difficulty.

With perfect respect, and the truest attachment, &c.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, June 15th, 1793.

The Secretary of the Treasury, in obedience to the order of the President of the United States, of the 6th inst., makes the following report:

The statement herewith transmitted, marked A, shows in the credit side thereof, the amount of the fund arising from foreign loans transferred to the United States, amounting to 2,965,643 dollars and 17 cents; and on the debit side thereof, the amount of the sums which have been actually disbursed, and are in a course of disbursement, out of that fund, for specific purposes, being 2,400,159 dollars and 19 cents.

There of course remains for, and subject to, application, according to the laws authorizing the loans, a balance of 565,484 dollars and 28 cents.

To this will be to be added, when ascertained, certain sums of interest subsequent to the year 1790, which will have been included in the payments to France and Spain, out of the proceeds of the foreign loans, and which will thereby have been

virtually transferred to the United States—provision having been made for that object out of domestic funds. The addition, however, will not be large.

Hence results an answer to the first question stated by the President.

In answer to the second question, the Secretary has the honor to observe, that it would be, in his opinion expedient, for the reason which has governed hitherto—the convenience of which has been fully experienced, namely, the *power of applying the fund to the purposes of either law, according to circumstances*—that the proposed loan should be made upon the authority of both acts, and not upon the separate authority of either of them.

The following summary answers the third question proposed:

The sum allowed to be borrowed, by the two acts of the 4th and 12th of August, 1790, is 14,000,000 dollars. The whole amount of the loans hitherto made, is 19,550,000 guilders—equal to $\frac{364}{711}$ nineteenths of a dollar per guilder to 7,898,989 dollars and 88 cents. Consequently the balance remaining unborrowed, of the sums allowed to be borrowed, is 6,101,010 dollars and 12 cents, which leaves much more than a sufficient latitude for a loan of 3,000,000 of florins, in addition to that for 2,000,000 already directed, and probably set on foot.

The immediate main object of this further loan would be, the purchase of the debt.

The instalments of the debt to France falling due in September and November next, and the interest for a year upon so much of the debt as, by the terms of the contract, would fall due after the present time, amount to 3,335,000 livres, or 605,308 dollars and 50 cents; which, if to be wholly paid, will more than absorb the balance on hand of the foreign fund.

Supposing the application of the balance to that purpose, there would remain to be borrowed, for the purpose of purchases of the debt, 1,715,098 dollars.

The two millions of guilders already directed to be borrowed, and the three millions the loan of which is proposed to be au-

thorized, would amount, together, to 2,020,202 dollars and 2 cents; which would exceed the sum requisite for purchases of the debt by 305,103 dollars and 91 cents.

But it is possible that events may arise which would render it desirable to the United States to increase its payments to France, as in that view also, to make such an excess not inconvenient.

Besides that, on the 1st of June, 1794, another instalment of the Dutch loan becomes payable, and it is probable, if instructions to set on foot the loan should go at this time, the entire payment of the sums subscribed to the loan would not be completed much sooner than June next. Add to this, that it is frequently possible to get the periods of payment protracted.

It would have been fortunate, in every sense, if the state of the Treasury had permitted the entering the market for purchases in force; but the detail which has been given, shows that it could not have been done, under the obstacles which the state of European affairs lately threw in the way of loans, without materially hazarding the credit of the United States.

While it is prudent to wait till it is experimentally ascertained that these obstacles have been removed by the change of affairs, it is desirable to be provided, to the extent of the authority given, with means of prosecuting purchases.

It is probable that, for a considerable time to come, the prices of stock will remain at the point which will render purchases extremely advantageous.

The further consideration, which has been stated, with reference to France, and the next instalment of the Dutch loans, may not be found unworthy of attention.

All which is respectfully submitted.

A. HAMILTON,

*Secretary of the Treasury.*

*Account referred to in Report of 15th June, 1793.*

DR. *State of Moneys transferred to the United States, out of the Proceeds of Foreign Loans.*

| | |
|---|---|
| To this sum expended in purchases of the public debt, . . | $284,901 89 |
| To this sum paid, and to be paid to France, for the use of St. Domingo, . . . . . | 726,000 00 |
| To this sum paid, and to be paid to France, on account of the three million of livres promised, . . . . . | 544,500 00 |
| To this sum paid to France, for miscellaneous purposes, . . | 49,400 00 |
| To this sum paid, and to be paid to foreign officers, . . . | 191,316 00 |
| To this sum appropriated, for the 1st instalment due to the Bank of the United States, . . . . . | 200,000 00 |
| To this sum remitted to Europe, for paying an instalment due on 1s une, on the Dutch debt, 1,000,000 of guilders, at 36 $\frac{4}{11}$ nineteenths per guilder, . . . . . | 404,040 48 |
| | $2,400,159 19 |
| Balance subject to future disposition, . . . . . | 565,484 28 |
| Pr. contra cr., . . . . . | 2,965,643 47 |
| By this sum drawn for by Samuel Meredith, Treasurer, . . | 2,305,769 13 |
| By this sum applied in Amsterdam to the payment of interest, for which provision was made out of domestic funds, and thereby virtually drawn to the United States, 1,633.89 guilders and 2 stivers, 36 $\frac{4}{11}$ nineteenths per guilder, . . . | 659,874 34 |
| | 2,965,643 47 |

TREASURY DEPARTMENT, *June 15th*, 1793.

ALEXANDER HAMILTON,
*Secretary of the Treasury.*

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## WASHINGTON TO JEFFERSON.

PHILADELPHIA, June 16, 1793.

DEAR SIR:

I should be glad if you would give the inclosed report a perusal, and let me know if you think the reasons therein given are sufficient to authorize the additional loan of three millions of

florins, applied for by the Secretary of the Treasury in a letter which you have seen.

The answers contained in the report show the points on which I required information from him. In addition to the motives assigned in the report for borrowing the additional sum, there are others (if the act of doing it is warranted by law), very cogent in my mind, as inducements to the measure; namely, the uncertain result of the Indian treaty, the invasion of our southern frontiers, and the peculiarly delicate situation in which we are placed with respect to some of the belligerent powers, who, in spite of all we can do, may involve us in a dispute with one or more of them, in which case it might be too late for us to effect a loan in Europe.

If the propriety of borrowing on the plan, and for the purposes mentioned in the report, is clear in your mind, the report may be returned by the bearer; if not, any time before noon to-morrow may do.

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JEFFERSON TO WASHINGTON.

June 17, 1793.

I cannot see my way clear in the case in which the President has been pleased to ask my opinion, but by recurring to these leading questions:

Of the 7,898,999 dollars so borrowed, or rather of the 7,543,912 dollars net proceeds thereof, how much has been applied to the *payment* of the FOREIGN and *purchase* of the GENERAL debt?

To the balance thereof, which should be on hand, and the two millions of florins now borrowed, is any addition necessary for the *same objects*, for the years 1793, 1794?

The statement furnished by the Secretary of the Treasury does not answer these questions. It only shows what has been done with somewhat less than three millions out of near eight

millions of dollars which have been borrowed, and in so doing it takes credit for two sums which are not to come out of this fund, and therefore not to be left in the account. They are the following:

1. A sum of 284,901 dollars 89 cents expended in purchases of the public debt. In the general report of the trustees of the sinking fund, made to Congress the 23d of February last and printed, it appears, page 29, that the whole amount of moneys laid out by them was 1,302,407 dollars 64 cents; from which were to be deducted, as is mentioned in the note there subjoined, the purchases made out of the interest fund (then about 50,000 dollars, as well as I recollect), call the sum paid then 1,252,407 dollars 60 cents. By the Treasury Report, page 38 (new edition), it appears that the surplus of domestic revenue to the end of 1790, appropriated to this object, was 1,374,656 dollars 10 cents; and page 34, that the moneys drawn from Europe on account of the foreign loans, were not the instrument of these purchases; and in some part, to which I am not able now to turn, I recollect pretty certainly that it is said these purchases were actually carried to account, as was proper, against the domestic surplus; consequently they are not to be allowed in the foreign account also; or if allowed in this, the sum will then be due from the surplus account, and so must lessen the sum to be borrowed from the sinking fund, which amounts to the same.

2. The first instalment due to the bank—200,000 dollars. Though the first payment of the subscription of the United States to the bank might have been made on the first instant, out of the foreign moneys, to be immediately repaid to them by the money borrowed of the bank, yet this useless formality was avoided, and it was a mere operation of the pen on paper, without the displacement of a single dollar (see Report, page 12); and in any event the final reimbursement was never to be made out of the foreign fund, which was appropriated solely to the *payment* of the FOREIGN and *purchase* of the GENERAL debt. These two sums therefore, of 284,901 dollars 89 cents and 200,000, are to be added to the balance of 565,464 dollars 28 cents, subject to future disposition, and will make 1,050,386 dollars 17 cents actually here and still to be applied to the proper appropriation.

However, this account, as before observed, being only of a part of the moneys borrowed, no judgment can be formed from it of the expediency of borrowing more; nor should I have stopped to make a criticism on it, but to show why no such sums as the two above mentioned were inserted in the general account sketched for the President, June 5. I must add, that the miscellaneous sum of 49,000 dollars in this account is probably covered by some other articles of that, as far as it is chargeable in this fund; because that account, under one form or another, takes up all the articles chargeable in this fund which had appeared in the printed reports. I must therefore proceed to renew my statement of June 5, inserting therein the first instalment of the Dutch loan of 484,000 dollars 40 cents, payable this month, which not having been mentioned in any of the reports heretofore published, was noticed in no statement. I will add a like sum for the year 1794, because I think we should now prepare for the
of that year

As the Secretary of the Treasury does not seem to contemplate the purchasing any fixed sum for the sinking fund, I shall leave that article of the account, add to its result any sum he may decide to have purchased to that fund.

*The Trust for Loans, Dr.*

To net amount of loans to June 1, 1792, 755,912 dollars.
the loan now going for 2,000,000 florins,

*Cr.*

By charges on remittances to France,
By reimbursement to Spain,
By interest paid to foreign officers,
By principal paid to foreign officers,
By amount of French debt, principal and interest, payable to end of year 1791,
By do. for 1792,
By do. for 1793,
By first instalment of Dutch debt, 1st June, 1793,

By instalments and interest to France for 1794,
By instalment to Holland for 1794,
Balance will then remain in hands of the Trust, $

So that it appears there will be a balance in the hands of the Trust—the clear sum of 499,393 dollars 84 cents—were no moneys to be furnished in the mean time to the sinking fund. But should the President determine to furnish that, with the 90,000 dollars proposed in my statement of June 5, then a loan would be necessary for about 405,000 dollars—in near round numbers, 1,000,000 of guilders, in addition to the two millions now borrowing. I am, *individually*, of opinion that that sum ought to be furnished to the sinking fund, and consequently that an additional loan to this extent should be made, considering the subject in a *legal point of view* only. The reasons in favor of the extension are:

The apprehension of the extension of our war to other Indian nations, and perhaps to Europe itself. The disability this might produce to borrow at all [this is in my judgment a weighty consideration].

The possibility the government of France may become so settled, as that we may hazard the anticipation of payment, and so avoid dead interest.

The reasons against it are:

The possibility that France may continue for some time yet so unsettled as to render an anticipation of payments hazardous.

The risk of losing the capital borrowed, by a successful invasion of the country of deposit, if it be left in Europe; or by an extension of the bankruptcies now shaking the most solid houses; and when and where they will end we know not.

Loss of interest on the dead sum, if the sum itself be safe.

The execution of a power for one object, which was given to be executed for a very different one.

The commitment of the President, on this account, to events, or to the criticisms of those who, though the measure should be perfectly wise, may misjudge it through error or passion.

The apprehension that the head of the department means to

provide idle money to be lodged in the banks ready for the corruption of the next legislature, as it is believed the late ones were corrupted, by gratifying particular members with vast discounts for objects of speculation.

I confess that the last reasons have most weight with me.

[The blanks in this and the previous reports of Jefferson, are owing to the illegibility of the original papers.]

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## CABINET OPINION.

June 17, 1793.

At a meeting of the heads of departments at the President's, this day, on summons from him, a letter from Mr. Genet, of the 15th inst., addressed to the Secretary of State on the subject of the seizure of a vessel by the Governor of New-York, as having been armed, equipped, and manned in that port, with a design to cruise on the enemies of France, was read, as also the draft of an answer prepared by the Secretary of State, which was approved.

Read also a letter of June 14th, from Mr. Hammond to the Secretary of State, desiring to know whether the French privateers, the Citizen Genet, and Sans Culottes, are to be allowed to return, or send their prizes into the ports of the United States. It is the opinion that he be informed that they were required to depart to the dominions of their own sovereign, and nothing expressed as to their ulterior proceedings; and that in answer to that part of the same letter, which states that the Sans Culottes has increased its force in the port of Baltimore, and remains there in the avowed intention of watching the motions of a valuable ship now lying there, it be answered, that we expect the speedy departure of those privateers will obviate the inconveniences apprehended, and that it will be considered whether any practicable arrangements can be adopted, to prevent the augmentation of the force of armed vessels.

TH. JEFFERSON,
H. KNOX,
A. HAMILTON.

WASHINGTON TO HAMILTON.

PHILADELPHIA, June 20th, 1793.

SIR:

I have received and paid attention to your report of the 15th instant. The result is, that the loan of two millions of florins ought, in my opinion, to be urged without delay, if it can be obtained within the limitations of the law. The further proposal of borrowing three millions of florins in addition, I shall, seeing no inconvenience that will arise from the delay, take a few days longer to consider; as some reasons occur against, as well as for the measure, in the present unsettled state of credit, and military and other operations in Europe.

In the mean time, it would contribute to my understanding of the subject better, if you were to let me know how the whole sum borrowed under the acts of the 4th and 12th of August, 1790, instead of the sums which have been transferred to the United States, has been applied; and whether the two hundred thousand dollars "first instalment to the Bank of the United States," is a legal charge, under those acts, or any other, in the account A, referred to in the report; also, whether the two hundred and eighty-four thousand nine hundred and one dollars and eighty-nine cents, expended in the purchase of the public debt, do not appear in the report of the commissioners of the sinking fund, or some other report made to Congress last session, as appertaining more properly to the surplus revenue.

I ask these questions for information; because, if the answer should be in the affirmative, the difference will be very material, and when added to the balance of five hundred and sixty-five thousand four hundred and eighty-four dollars and twenty-eight cents, as per your statement A, would, with the two millions of florins negotiating, cover all the ascertained demands upon the United States for the years 1793 and 1794, exclusive of what may be required for the sinking fund; for which you have made no specific appropriation whereby to form an estimate of the aggregate sum required.

HAMILTON TO WASHINGTON.

PHILADELPHIA, June 21, 1793.

SIR:

Considerations relative both to the public interest and to my own delicacy, have brought me, after mature reflection, to a resolution to resign the office I hold, towards the close of the ensuing session of Congress.

I postpone the final act to that period, because some propositions remain to be submitted by me to Congress, which are necessary to the full development of my original plan, and, as I suppose, of some consequence to my reputation; and because, in the second place, I am desirous of giving an opportunity, while I shall still be in office, to the revival and more deliberate prosecution of the inquiry into my conduct, which was instituted during the last session.

I think it proper to communicate my determination thus early; among other reasons, because it will afford full time to investigate and weigh all the considerations which ought to guide the appointment of my successor.

With the most perfect respect, I have the honor to be, &c.

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HAMILTON TO WASHINGTON.

June 24, 1793.

SIR:

Pursuant to your requisition of the 20th instant, I have the honor to submit a statement of the application of the whole of the moneys borrowed by virtue of the acts of the 4th and 12th of August. The precise accuracy of this statement cannot be warranted, till there shall be a settlement at the Treasury of all the accounts on which it depends (a business now in train). But the items generally are so well ascertained as to leave no possibility of any material error.

That the 200,000 dollars for the first instalment of the debt due to the Bank of the United States is properly chargeable to the foreign fund, will be seen by a recurrence to the act of the 2d March last, authorizing the payment of that instalment, which act expressly directs that it shall be made out of the moneys borrowed pursuant to the 4th section of the act entitled "An act making provision for the reduction of the public debt," which is the act of the 4th August, 1790, authorizing the borrowing of two millions of dollars in order to purchases of the debt.

The 284,901 dollars and 89 cents, is equally a charge on the same fund. It appears in no report to Congress at the last session, or at any other time, as appertaining to the domestic fund or surplus revenue. On the contrary, that sum is expressly stated to have been issued out of the *foreign* fund in my third letter to the House of Representatives, dated February 13th, 1793 (page 55 of the printed copy herewith sent). For the more complete elucidation of this fact, a certificate of the Register of the Treasury is annexed, showing that the sum in question was originally carried in the books of the Treasury to the account of the foreign fund.

In my report of the 15th instant, I stated that on the supposition of full payment to France of the instalments of September and November next with interest, which would absorb the unapplied balance of the foreign fund, there would remain to be borrowed for the purpose of purchases of the debt, 1,715,098 dollars 11 cents. This remainder is found by deducting the abovementioned sum of 284,901 dollars 89 cents (the sum expended in purchases out of the foreign fund), from 2,000,000 of dollars, the whole sum authorized to be borrowed for that purpose.

This sum, then, of 1,715,098 dollars 11 cents, is the sum still to be procured to complete the views of the legislature with regard to the purchases; and, if the present European war continues, may, in all probability, be invested with advantage as fast as it can be commanded.

I have the honor to be, &c.

*Dr. Account of loans made pursuant to the acts of the 4th and 12th August*, 1790.

| | |
|---|---|
| 1790. | |
| Total amount of loans, 19,550,000 guilders, equal at 36 $\frac{4}{17}$ per guilder to . . . . . | $7,898,989 88 |
| Deduct amount of original charges respecting contracts, 872,000 guilders, at 36 $\frac{4}{17}$, . . . . . | 352,323 24 |
| Net product, . . . . . | $7,546,666 64 |

Contra *Cr.*

| | |
|---|---|
| Amount heretofore stated to have been transferred to United States, | 2,965,643 47 |
| Amount of payments made to France in Europe, and charges on the same, 10,003,116 guilders 9 stivers, equal to . . | 4,073,986 46 |
| Debt to Spain in course of payment, estimated at 680,000 florins, | 274,747 46 |
| Interest on debt to foreign officers directed to be paid at Paris, 105,000 guilders, . . . . . | 42,424 24 |
| Paid in Holland in premiums and gratuities on old loans, commissions and other extra charges, . . . . . | * 189,865 03 |
| | $7,546,666 66 |

A. HAMILTON.

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CABINET OPINION.

At a meeting held at the State House of the city of Philadelphia, July the 8th, 1793,

*Present*—

The Secretary of State,
The Secretary of the Treasury,
The Secretary at War—

It appeared, that a brigantine called the Little Sarah has been fitted out at the port of Philadelphia, with fourteen cannon and all other equipments, indicating that she is intended (as a privateer†) to cruise under the authority of France, and that she

* The sum paid on these different objects is computed to exceed the sum stated, by 72,265 florins, constituting a balance of so much in favor of the Commissioners.

† Omit the words "as a privateer."

is now lying in the river Delaware at some place between this city and Mud Island; that a conversation has been had between the Secretary of State and the Minister Plenipotentiary of France, in which conversation the minister refused to give any explicit assurance that the brigantine would continue until the arrival of the President and his decision in the case; but made declarations respecting her not being ready to sail within the time of the expected return of the President, from which the Secretary of State infers with confidence, that she will not sail till the President will have an opportunity of considering and determining the case. That in the course of the conversation, the minister declared that the additional guns which had been taken in by the Little Sarah were French property, but the Governor of Pennsylvania has declared that he has good ground to believe that at least two of her cannon were purchased here of citizens of Philadelphia. The Governor of Pennsylvania asks advice what steps, under the circumstances, he shall pursue.

The Secretary of the Treasury and the Secretary of War are of opinion, that it is expedient that immediate measures should be taken provisionally for establishing a battery on Mud Island, under cover of a party of militia, with discretion that if the brig Sarah should attempt to depart before the pleasure of the President shall be known concerning her, military coercion be employed to arrest and prevent her progress.

The Secretary of State dissents from this opinion.

TH. JEFFERSON.

Information having also been received that part of the crew of the Sarah are citizens of the United States, as can be testified by Charles Biddle of this city,

The abovementioned heads of departments agree that this information shall be communicated to the attorney of the district, in order that, pursuant to his former instructions, he may take measures for apprehending and bringing them to trial.

## CABINET OPINION BY JEFFERSON.

July 8th, 1793.

I am against the preceding opinion of the Secretaries of the Treasury and War, for ordering a battery to be erected on Mud Island, and firing on the Little Sarah, an armed vessel of the Republic of France.

Because I am satisfied, from what passed between Mr. Genet and myself at our personal interview yesterday, that the vessel will not be ordered to sail till the return of the President, which, by a letter of this day's post, we may certainly expect within eight-and-forty hours from this time.

Because the erecting a battery, and mounting guns to prevent her passage, might cause a departure not now intended, and produce the fact it is meant to prevent.

Because, were such battery and guns now in readiness, and to fire on her, in the present ardent state of her crew, just in the moment of leaving port, it is morally certain that bloody consequences would follow; no one can say how many lives would be lost on both sides; and all experience has shown, that, blood once seriously spilled between nation and nation, the contest is continued by subordinate agents, and the door of peace is shut. At this moment, too, we expect in the river 20 of their ships of war, with a fleet of from 100 to 150 of their private vessels, which will arrive at the scene of blood in time to continue it, if not to partake in it.

Because the actual commencement of hostilities against a nation (for such this act may be) is an act of too serious consequence to our countrymen to be brought on their heads by subordinate officers, not chosen by them nor clothed with their confidence, and too presumptuous on the part of those officers, when the Chief Magistrate, into whose hands the citizens had committed their safety, is within eight-and-forty hours of his arrival here, and may have an opportunity of judging for himself and them, whether the buying and carrying away two cannon (for, according to information, they are not the nation's own

property) is sufficient cause of war between Americans and Frenchmen.

Because, should the vessel, contrary to expectation, depart before the President's arrival, the adverse powers may be told the truth of the case; that she went off contrary to what we had a right to expect; that we shall be justifiable in future cases to measure our confidence accordingly; that for the present we shall demand satisfaction from France, which, with the proofs of good faith we have already given, ought to satisfy them. Above all, Great Britain ought not to complain, for, since the date of the order forbidding that any of the belligerent powers should equip themselves in our ports with our arms, these two cannon are all that have escaped the vigilance of our officers on the part of their enemies, while their vessels have carried off more than ten times the number without any impediment; and if the suggestion be true (and as yet it is but suggestion), that there are fifteen or twenty Americans on board the Little Sarah, who have gone with their own consent, it is equally true that more than ten times that number of Americans are at this moment on board English ships of war, who have been taken forcibly from our merchant vessels at sea or in port, wherever met with, and compelled to bear arms against the friends of their country. And is it less a breach of our neutrality towards France to suffer England to strengthen herself with our force, than towards England to suffer France to do it? and are we equally ready and disposed to sink the British vessels in our ports, by way of reprisal for this notorious and avowed practice?

Because it is inconsistent for a nation which has been patiently bearing for ten years the grossest insults and injuries from their late enemies, to rise at a feather against their friends and benefactors, and that too in a moment when circumstances have kindled the most ardent affections of the two people towards each other, when the little subjects of displeasure which have arisen are the acts of a particular individual, not yet important enough to have been carried to his government as causes of complaint, are such as nations of moderation and justice settle by negotiation, not making war their first step; and are such as that gov-

ernment would correct at a word, if we may judge from the late unequivocal demonstrations of their friendship towards us, and are very slight shades of the acts committed against us by England, which we have been endeavoring to rectify by negotiation, and on which they have never condescended to give any answer to our minister.

Because I would not gratify the combination of kings with the spectacle of the two only republics on earth destroying each other for two cannons; nor would I, for infinitely greater cause, add this country to that combination, turn the scale of contest, and let it be from our hands that the hopes of men receive their last stab.

It has been observed, that a general order has been already given to stop by force vessels arming contrary to rule within our ports, in which I concurred. I did so because it was highly presumable that the destination of such a vessel would be discovered in some early stage, when there would be few persons on board, these not yet disposed nor prepared to resist, and a small party of militia put on board would stop the procedure without a marked infraction of the peace. But it is a much more serious thing when a vessel has her full complement of men (here said to be 120), with every preparation, and probably with dispositions to go through with their enterprise. A serious engagement is then a certain consequence. Besides, an act of force committed by an officer in a distant port, under general orders, given long ago, to take effect in all cases, and with less latitude of discretion in him, would be a much more negotiable case than a recent order, given by the general government itself (for that is the character we are to assume) on the spot, in the very moment pointed at this special case, possessing full discretion, and not using it. This would be a stubborn transaction, not admitting those justifications and explanations which might avert a war, or admitting such only as would be entirely humiliating to the officers giving the order, and to the government itself.

On the whole, respect to the Chief Magistrate, respect to our countrymen, their lives, interests and affections—respect to a most friendly nation, who, if we give them the opportunity, will

answer our wrongs by correcting and not by repeating them—respect to the most sacred cause that ever man was engaged in, poising maturely the evils which may flow from the commitment of an act which it would be in the power and probably in the temper of subordinate agents to make an act of continued war, and those which may flow from an eight-and-forty hours' suspension of the act,—are motives with me for suspending it eight-and-forty hours, even should we thereby lose the opportunity of committing it altogether.

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### CABINET OPINION—HAMILTON AND KNOX.

July 8, 1793.

*Reasons for the opinion of the Secretary of the Treasury, and the Secretary at War, respecting the Brigantine Sarah.*

I. Because there can be no doubt, either upon principle or authority, that the permitting or suffering, or what is equivalent, the not taking effectual measures to prevent, when known, the fitting out of privateers in our ports by one of the belligerent Powers to cruise against any of the others, is an unequivocal breach of neutrality.

II. Because the President, in conformity with an unanimous opinion of the heads of the departments, and the Attorney-General, founded upon the above principle, has caused his disapprobation of the practice to be signified to the Ministers both of Great Britain and France, accompanied with an express assurance to the former, that *effectual measures would be taken to prevent a repetition of the practice.*

III. Because consequently not to take such measures in the present instance would be to depart from the declaration of neutrality, and to contravene the positive assurance given to the Minister of Great Britain; an omission as dishonorable as it must be dangerous to the government, implying either a want of abil-

ity, or a want of consistency and good faith. And as it will indubitably furnish a just cause of complaint against the United States, so it is natural to expect that it may involve them in war. It becomes the more serious in consequence of the non-surrender of the prizes which were *brought into our ports by the privateers Sans Culottes* and *Citizen Genet*, fitted out at Charleston.

IV. Because the fitting out of this privateer is a transaction involving on the part of the agents of France a gross outrage upon, and undisguised contempt of the government of the United States. It is aggravated by the circumstances of having been done under the immediate eye of the government, after an explicit and serious communication of its disapprobation—and after an expectation given that no similar attempt would be repeated. The Secretary of State reported to the President as the result of a conversation with the French Minister, on the subject of the two *privateers* before mentioned, what was equivalent to an apology for having done it, and to at least a tacit promise to forbear a repetition. Yet it is still done, and is even attempted to be justified.

V. Because it is impossible to interpret such conduct into any thing else than a regular plan to force the United States into the war. Its tendency to produce that effect cannot be misunderstood by the agents of France. The direct advantage of the measure to her is obviously too inconsiderable to induce the persisting in it contrary to the remonstrances of the government if it were not with a view to the more important end just mentioned; a conduct the more exceptionable, because it is accompanied with the fallacious disavowal of an intention to engage us in the war.

VI. Because there is satisfactory evidence of a regular system in the pursuit of that object, to endeavor to control the government itself by creating, if possible, a schism between it and the people, and enlisting them on the side of France in opposition to their own constitutional authorities. This is deducible not only from a great variety of collateral incidents, but from direct written and verbal declarations of the French Minister.

The memorial lately presented by him to the Secretary of State, the most offensive paper perhaps that was ever offered by

a foreign minister to a friendly power with which he resided, announces unequivocally the system which is alleged to exist.

Besides the exorbitant pretensions which that paper advances, of a right in defiance of the declared sense of the government to fit out armed vessels from the ports of the United States, and even to enlist our citizens in their own territories in the service of France—to hold courts within their jurisdiction for the condemnation of prizes unsanctioned by compact, contrary to the rights of neutrality, contrary even to the spirit of the regulations of France for her own consulate establishment, besides the loose and unfounded charges of breach of treaty rudely urged—that paper more than insinuates the imputation on the President of ill will to France under the instigation of foreign influence, of having gone beyond his duty and his authority by the decision of matters not within his province—and sufficiently implies an appeal from him to Congress, if not to the people, whose disposition is at least indelicately put in contrast with his. Language of this sort, if even better founded than it is in the present instance, can never be used by a diplomatic character without a culpable violation of decorum. He has nothing to do but with the constitutional organ of the government. In his official communication he ought never to look beyond him—nor can he do it without disrespect to the government and to the nation.

The declaration of the Minister of France to Mr. Dallas, Secretary of the Commonwealth of Pennsylvania, as related by him to the Governor of that Commonwealth and to the Secretary of State, is a further confirmation of the same system. That declaration among other exceptionable things expressed, "That he, the French minister, would appeal from the President to the people."

It would be a fatal blindness not to perceive the spirit which inspires such language, and ill-omened passiveness not to resolve to withstand it with energy.

VI. Because to refuse an assurance that the privateer should remain in port, till the President could arrive to decide upon her situation, was an additional high-handed contempt of the government; which was in no shape palliated by the ambiguous

intimations of a *probability* that she would not be ready to depart before his return, intimations which, from experience in other cases, can in no degree be relied upon.

VII. Because not to act with decision under such circumstances, will be to prostrate the government, to sacrifice the dignity and essential interests of the nation. Indecision in such a case must necessarily tend to destroy at home and abroad a due respect for the government, to weaken its arm, to embolden the enterprises of an intriguing and daring foreign agent, to encourage and multiply those who are disposed to adhere factiously to him, and alternately to put the country in the condition of being dictated to by that foreign agent, and at war with all the enemies of the nation he represents. It is a truth the best founded and of the last importance, that nothing is so dangerous to a government as to be wanting either in self-confidence or self-respect.

VIII. Because decision may even tend to preserve peace with France herself. If the enterprises of her minister are not checked in their present stage, it may clearly be inferred from his character, that they are likely to be carried to a length which will render a rupture between the two countries inevitable, should they not previously produce one with the powers who are opposed to France.

IX. Because the measure which is recommended is but a consequence of the instruction given to the different Governors on the 24th of May last, addressed to them in their military capacity, expressly to be executed by the agency of the militia, and it included necessarily the use of military coercion when that should be found requisite to the end to be accomplished. It is therefore not to adopt a new principle, but to second the execution of an order already given by the President, founded upon mature deliberation and the unanimous opinion of the heads of departments, with the Attorney-General. It is therefore due to the *known* and *declared* pleasure of the President. A Governor who could not have recourse to the advice now asked, would fail in his duty not to employ in a similar case the means recommended, *without further sanction*.

The Governor of Pennsylvania might justifiably do so in the existing instance; but the case having been previously drawn into consultation between him and the heads of departments, he has thought fit to ask their advice, and in giving it, conformably with the true spirit of the President's Instruction, *they* would only faithfully execute the trust reposed in them by him.

X. *Marked in original* XI. Because the measure proposed is only provisional, and can have no other effect than to evince the determination of the government, unless the vessel attempts to depart contrary to the intimation of the minister, as understood by the Secretary of State. In such an event, the necessity will be attested by the occasion.

XI. *In original* XIII. If there be delicacy on one side, there is still greater delicacy on the other. France would have justly nothing to complain of in reference to an act which was merely a vindication of our own sovereignty in our own territory against a manifest, deliberate, and outrageous violation of it by her agent.

If she be at all reasonable or equitable, she will disavow the proceedings and the agent, and take no offence. An appeal to her justice and friendship ought for this purpose to follow a resistance to the encroachment. But if actual measures be not taken, the other powers will have just cause of complaint, not only upon principle, but upon the strength of positive assurance. If war is to be hazarded, 'tis certainly our duty to hazard it with that power which by injury and insult forces us to choose between opposite hazards, rather than with those powers who do not place us in so disagreeable a dilemma.

A proceeding like that proposed cannot colorably be considered by any nation as an act of hostility. If attempts are made in neutral ports to equip armed vessels without permission of the neutral sovereign, they are clandestine: if they are detected and suppressed, it is regarded, as a matter of course, a penalty of which the adventurers are to take the chance. It would be a disgrace to the sovereign to whom they belong, and an offence to the neutral nation, *even to make it a subject of complaint.*

To adopt as a rule of conduct that if we are to be involved

in the war, it must be *at any rate* against the powers who are opposed to France—and that we ought rather to give them cause for attacking us, by suffering ourselves to be made an instrument of the hostilities of France, than to risk a quarrel with her by a vigorous opposition to her encroachments, would be a policy as unjust and profligate as it would be likely to prove pernicious and disgraceful.

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### HAMILTON TO WASHINGTON.

July 19th, 1793.

The Secretary of the Treasury presents his respects to the President of the United States, and has the honor to send him for his information a letter which he has just received from our Commissioners at Amsterdam.

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### WASHINGTON TO HAMILTON.

PHILADELPHIA, 22d July, 1793.

SIR:

A variety of matters which have called for immediate attention, have prevented my taking up your letter of the inst., inclosing one from our Commissioners at Amsterdam, dated the 1st of May last. It appears from that letter that the reimbursement of one million of florins due on the 1st of June, 1793, has been prolonged for ten years; and that you have made considerable remittances to them.

I wish therefore to know, whether this prolongation of reimbursement may not lessen the necessity of borrowing to so great an amount as might otherwise be expedient, for the purpose of our *foreign debts*, and whether those remittances do not operate a similar effect?

## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, July 24th, 1793.

SIR:

In answer to your inquiry of the 22d instant, I have the honor to observe, that in the communications heretofore made it is stated that an additional two millions of guilders had been already directed to be borrowed, and a proposition is submitted to the consideration of the President for authorizing a further loan of three millions of florins.

One of the objects of the two million loan was the reimbursement of the one million which became due in Holland on the first of June last.

The arrangement announced by our bankers in their letter of the 1st of May last, fulfils that object, and consequently diminishes by one million the aggregate sum deemed advisable to be borrowed, in the late reports of the Secretary to the President, so as to leave four millions, instead of five, to be still borrowed upon the plan contemplated.

The remittances from hence make no difference in the result, because they only remain to their original funds, the purpose for which they were intended having been answered by the arrangement above mentioned.

With perfect respect, I have the honor to be, &c.

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## WASHINGTON TO JOHN JAY, CHIEF-JUSTICE, AND JAMES WILSON, JAMES IREDELL, AND WILLIAM PATTERSON, ASSOCIATE-JUSTICES OF THE SUPREME COURT OF THE UNITED STATES.

PHILADELPHIA, July 23, 1793.

GENTLEMEN:

The circumstances, which had induced me to ask your counsel on certain legal questions interesting to the public, exist now

as they did then; but I by no means press a decision whereon you wish the advice and participation of your absent brethren. Whenever, therefore, their presence shall enable you to give it with more satisfaction to yourselves, I shall accept it with pleasure.

With sentiments of high respect, I am, &c.

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## QUESTIONS PROPOSED TO BE SUBMITTED TO THE JUDGES OF THE SUPREME COURT OF THE UNITED STATES.

**Draft by Hamilton.**

July, 1793.

I. Do the treaties between the United States and France give to France or her citizens a right, when at war with a power with whom the United States are at peace, to fit out originally in and from the ports of the United States, vessels armed for war with or without commissions?

II. If they give such a *right*, does it extend to all manner of armed vessels, or to particular kinds only? If the latter, to what kinds does it extend?

III. Do they give to France or her citizens, in the case supposed, a right to refit or arm anew vessels, which before their coming within any port of the United States were armed for war, with or without commission?

IV. If they give such a right, does it extend to all manner of armed vessels, or to particular kinds only? If the latter, to what kinds does it extend? Does it include an augmentation of force, or does it only extend to replacing the vessel in *statu quo?*

V. Does the 22d Article of the Treaty of Commerce, in the case supposed, extend to vessels armed for war, on account of the government of a power at war with France, or to merchant armed vessels belonging to the subjects or citizens of that power (viz.) of the description of those which by the English are called letter of marque ships—by the French, "batiments armés en marchandise et en guerre?"

VI. Do the treaties aforesaid prohibit the United States from permitting, in the case aforesaid, the armed vessels belonging to a power at war with France, or to the citizens or subjects of such power, to come within the ports of the United States, there to remain as long as they may think fit, except in the case of their coming in with prizes made of the subjects or property of France?

VII. Do they prohibit the United States from permitting, in the case supposed, vessels armed, on account of the government of a power at war with France, or vessels armed for merchandise and war, with or without commission, on account of the subjects or citizens of such power, or any vessels other than those commonly called privateers, to sell freely whatsoever they may bring into the ports of the United States, and freely to purchase in and carry from the ports of the United States, goods, merchandise, and commodities, except as excepted in the last question.

VIII. Do they oblige the United States to permit France, in the case supposed, to sell in their ports the prizes which she or her citizens may have made of any power at war with her, the citizens or subjects of such power; or exempt from the payment of the usual duties on ships and merchandise, the prizes so made, in the case of their being to be sold within the ports of the United States?

IX. Do those treaties, particularly the Consular Convention, authorize France, as of right, to erect courts within the jurisdiction of the United States for the trial and condemnation of prizes made by armed vessels in her service?

X. Do the laws and usages of nations authorize her, as of right, to erect such courts for such purposes?

XI. Do the laws of neutrality, considered relatively to the treaties of the United States with foreign powers, or independently of those treaties, permit the United States in the case supposed, to allow to France or her citizens the privilege of fitting out originally in and from the ports of the United States, vessels armed and commissioned for war, either on account of the government or of private persons, or both?

XII. Do those laws permit the United States to extend the like privilege to a power at war with France?

XIII. Do the laws of neutrality, considered as aforesaid, per-

mit the United States, in the case supposed, to allow to France or her citizens the privilege of refitting or arming anew vessels which, before their coming within the United States, were armed and commissioned for war? May such privilege include an augmentation of the force of such vessels?

XIII. Do those laws permit the United States to extend the like privilege to a power at war with France?

XIV. Do those laws, in the case supposed, permit merchant vessels of either of the powers at war, to arm in the ports of the United States, without being commissioned? May this privilege be rightfully refused?

XV. Does it make any difference, in point of principle, whether a vessel be armed for war, or the force of an armed vessel be augmented in the ports of the United States, with means procured in the United States, or with means brought into them, by the party who shall so arm or augment the force of such vessel? If the first be unlawful, is the first lawful?

XVI. Do the laws of neutrality, considered as aforesaid, authorize the United States to permit to France, her subjects or citizens, the sale within her ports of prizes made of the subjects or property of a power at war with France, before they have been carried into some port of France and there condemned, refusing the like privilege to her enemy?

XVII. Do those laws authorize the United States to permit to France the erection of courts within their territory and jurisdiction, for the trial and condemnation of prizes—refusing that privilege to a power at war with France?

XVIII. If any armed vessel of a power at war with another, with whom the United States are at peace, shall make prize of the subjects or property of its enemy within the territory or jurisdiction of the United States, have not the United States a right to cause restitution of such prize? Are they bound or not by the principles of neutrality so to do, if such prize shall be within their power?

XIX. To what distance, by the laws and usages of nations, may the United States exercise the right of prohibiting the hostilities of foreign powers at war with each other, within rivers,

bays, and arms of the sea, and upon the sea along the coasts of the United States?

XX. Have vessels armed for war, under commission from a foreign power, a right, without the consent of the United States, to engage within their jurisdiction seamen and soldiers, for the service of such vessels, being citizens of that power, or of another foreign power, or citizens of the United States?

XXI. Is it lawful for the citizens of such power, or citizens of the United States, so to engage, being within the jurisdiction of the United States?

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### WASHINGTON TO HAMILTON.

PHILADELPHIA, July 27th, 1793.

DEAR SIR:

After giving the subject of loans the most attentive consideration I am able, under the several explanations which have been required and received from you, my mind has resolved itself into the form of the inclosed paper. But if there is any material objection to the measure there directed, unadverted to by me, I am ready and willing to hear it; otherwise it may be carried into effect without delay. There is a blank to fill up—to do which I pray you to furnish me with the sum.

I am, &c.

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### WASHINGTON TO HAMILTON.

PHILADELPHIA, July 27th, 1793.

SIR:

I have considered your application for liberty to borrow three millions of florins, in addition to the one million now in train of being borrowed.

It appears from the documents which you have laid before

me, that 284,901 dollars and 89 cents have been applied to the purchase of the general debt; and that by the act of 2d March, 1793, 200,000 dollars of the money for that use have been employed in discharging the instalment due to the Bank of the United States. The sum, then, which may still be borrowed, under the act of the 12th August, 1790, being 1,515,098 dollars and 11 cents, and it being very desirable to embrace the present season for purchasing, I am of opinion that a loan should be opened to that amount.

In like manner, as the balance of foreign loans now in the Treasury, which appears from the same documents to be 565,484 dollars and 28 cents, may be absorbed by the instalments of the French debt due in September and November next, and another instalment of the Dutch loan will fall due in June, 1794, and will require the sum of 1,000,000 florins, I am also of opinion that a loan ought to be effected to that amount.

GEO. WASHINGTON.

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## WASHINGTON TO THE HEADS OF DEPARTMENTS AND THE ATTORNEY GENERAL.

**Draft by Hamilton.**

PHILADELPHIA, 29 July, 1793.

GENTLEMEN:

It will not be amiss, I conceive, at the meeting you are about to have to-day, to consider the expediency of directing the custom-house officers to be attentive to the arming or equipping vessels, either for offensive or defensive war, in the several ports to which they belong, and make report thereof to the governor or some other proper officer.

Unless this, or some other effectual mode is adopted to check this evil in the first stage of its growth, the Executive of the United States will be incessantly harassed with complaints on this head, and probably when it may be difficult to afford a remedy.

I am, &c.

### WASHINGTON TO HAMILTON.

PHILADELPHIA, August 3, 1793.

DEAR SIR:

Motives of justice, friendship and candor, induce me to send the inclosed for your perusal. Let me know the truth of this matter, what answer is proper to be given to it, and by whom.

The writer is urgent to receive one, having called once or twice since the delivery of it for this purpose.

I am, &c.,

GEO. WASHINGTON.

The inclosed alluded to above, was a complaint from A. G. Frauncis, respecting the withholding payment of certificates which he conceived he was entitled to, and which his statement explains.

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### CABINET OPINION—RANDOLPH TO WASHINGTON.

*On the question, whether Congress be now called, August* 3, 1793.

At a past day this question was agitated; and it was the unanimous opinion, that Congress should not be then called. A revision of that opinion confirms me in its propriety. Some further reasons, therefore, amounting to what the Constitution calls an "*extraordinary occasion*," must have occurred since, if that opinion is to be relinquished.

If those reasons be not well founded, to what extent may not the alarm be carried both here and in Europe? Every imagination will be racked to discover the extraordinary occasion; and there can be no doubt that dangers of every possible kind will be supposed to surround this country. Public credit will be shaken by new suspicions; and the belligerent powers will entertain one most hazardous to us, that the Executive foresee that

we cannot escape the war. In the latter case, the nations who least expect our favor may possibly hasten to anticipate our power of hostility.

Still, however, if the extraordinary occasion exists, it must be obeyed. But does it exist?

1. The war with the western Indians has a chance of being ended, or at least has not assumed any terrors, against which we are not prepared. It may indeed become more formidable, by embracing greater bodies of Indians; but no ground yet appears for such a calculation.

2. The southern Indians are to be apprehended. But a peace with the western Indians would leave the army free to act against the southern; an enterprise cannot be set on foot by Congress, if now called, early enough to seize any part of this year, and April is supposed to be the best season for operations.

3. The determination to procure Mr. G.'s recall, is an affair for which the President is not accountable to any other order of the government. It is not feared, that such a measure will produce any convulsions; but on the contrary, ought to conciliate the public affection, and particularly the affection of those who wish to see the dignity of government or its peace maintained.

4. Although the acquittal of G. Henfield is a proof, that the jury, under all the circumstances of *his* case, thought *him* innocent; the law was announced with firmness and decision by the judges. Another trial may be expected to have a different result; and to call Congress, because he was acquitted, would argue, that the Executive had lost confidence in its own judgment, which originally dictated the prosecution, although it has been corroborated by that of the Court.

5. At the same time, it must be acknowledged, that it would be a great relief to the President, and Congress would be ready for all events, if they were earlier assembled. But what advantage can be obtained in point of time? Not more than a month. And is it worth the risk of spreading a general alarm for such an acquisition of time? Will it not be said, that the President has gone as far and as long as he could without Congress; and finding his career by himself closed or anxious to save appear-

ances, he is *now* at length desirous of sharing the burthen with them?

Being unable therefore to discover any special reasons for calling Congress, equal in weight to those against it, or any adequate motives in the general complexion of affairs, I am of opinion that Congress ought not *now* to be summoned.

EDM. RANDOLPH.

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CABINET OPINION.

August 8, 1793.

I. The original arming and equipping of vessels in the ports of the United States by any of the belligerent parties, for military service, offensive or defensive, is deemed unlawful.

II. Equipments of merchant vessels by either of the belligerent parties in the ports of the United States, purely for the accommodation of them as such, is deemed lawful.

III. Equipments in the ports of the United States of vessels of war in the immediate service of the government of any of the belligerent parties, which, if done to other vessels, would be of a doubtful nature, as being applicable either to commerce or war, are deemed lawful, except those which shall have made prize of the subjects, people or property of France coming with their prizes into the ports of the United States, pursuant to the seventeenth article of our Treaty of Amity and Commerce with France.

IV. Equipments in the ports of the United States by any of the parties at war with France, of vessels fitted for merchandise and war, whether with or without commissions, which are doubtful in their nature as being applicable either to commerce or war, are deemed lawful, except those which shall have made prize, &c.

V. Equipments of any of the vessels of France in the ports of the United States, which are doubtful in their nature, as being applicable to commerce or war, are deemed lawful.

VI. Equipments of every kind in the ports of the United States, of privateers of the powers at war with France, are deemed unlawful.

VII. Equipments of vessels in the ports of the United States, which are of a nature solely adapted to war, are deemed unlawful; except those stranded or wrecked, as mentioned in the eighteenth article of our treaty with France, the sixteenth of our treaty with the United Netherlands, the ninth of our treaty with Prussia, and except those mentioned in the nineteenth article of our treaty with France, the seventeenth of our treaty with the United Netherlands, the eighteenth of our treaty with Prussia.

VIII. Vessels of either of the parties not armed, or armed previous to their coming into the ports of the United States, which shall not have infringed any of the foregoing rules, may lawfully engage or enlist therein their own subjects or citizens, not being inhabitants of the United States, except privateers of the power at war with France, and except those vessels which have made prize, &c.

Aug. 3, 1793.

The foregoing rules, having been considered by us at several meetings, and being now unanimously approved, they are submitted to the President of the United States.

THOMAS JEFFERSON,
ALEXANDER HAMILTON,
H. KNOX,
EDM. RANDOLPH.

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JEFFERSON TO WASHINGTON.

Aug. 4, 1793.

The President having been pleased to propose, for consideration, the question, Whether it be proper or not to convene the legislature at an earlier period than that at which it is to meet by law? and at what time? I am of opinion it will be proper.

I. Because the protection of our southern frontier seems to render indispensable a war with the Creeks, which cannot be declared, nor provided for but by the legislature, nor prudently undertaken by the Executive, on account of the consequences it may involve with respect to Spain.

II. Because several legislative provisions are wanting to enable the government to steer steadily through the difficulties daily produced by the war of Europe, and to prevent our being involved in it by the incidents and perplexities to which it is constantly giving birth.

III. Because should we be involved in it, which is every day possible, however anxiously we endeavor to avoid it, the legislature meeting a month earlier will place them a month forwarder in their provisions for that state of things.

I think the first Monday in November would be a proper time for convening them, because while it would gain a month in making provisions to prevent or prepare for war, it leaves such a space of time for their assembling, as will avoid exciting alarm either at home or abroad.

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## KNOX TO WASHINGTON.

WAR DEPARTMENT, August 5, 1793.

SIR:

It was on the 3d instant agreed between the heads of the departments and the Attorney-General, that each individual should submit his opinion to you in writing, upon the propriety of calling Congress together before the period at which they are to be assembled.

In the present state of things in this country, as well as in Europe, an expectation of uncommon events has been generally excited. The prudent and sober part of the community regard, as in the case of a storm, the mind and countenance of the chief pilot. While he remains confident and composed, happiness is

diffused around; but when he doubts, then anxiety and fear has its full effect.

Most of the cases which have yet occurred as relative to foreign powers, have been the proper business of the Executive, and the opinions of the Judiciary seem to indicate that all the measures hitherto adopted for the preservation of the peace, have been proper and wise. For any case of a similar nature which may probably arise prior to the session of Congress, it is probable the powers of the President may be adequate.

The Southern Indian business may indeed require the early attention of Congress. But when it shall be considered that this attention could be anticipated but a little, and that a winter's campaign, according to General Pickens' opinion, would be an hazardous operation, much would not be gained by calling Congress together one month sooner than they would otherwise assemble; for it may be doubted, whether if a proclamation should be issued immediately, that a full Congress would be assembled much before the first day of November.

If then to gain one month only Congress should be called, it is probable the public mind, both at home and abroad, would be filled with doubts and perplexities, public credit might be affected, and great domestic distress ensue.

After placing this question in several attitudes, the balance of my mind is, that it is probable the measure of calling Congress together at this time, would produce greater evil than good.

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### CABINET OPINION.—HAMILTON TO WASHINGTON.

PHILADELPHIA, Aug. 5th, 1793.

I doubt the expediency of specially convening the Congress at this time, for the following reasons:

The Constitution requires that an extraordinary occasion should exist as the basis of the exercise of the power of the President to convene the legislature.

It is not perceived that any circumstance now exists which did not exist months ago, of sufficient force to constitute an extraordinary occasion.

The war in Europe existed then, as it does now. Indian affairs are not understood to be at this time in a worse, if in so bad a posture as they have been for a considerable time past.

Some additional incidents have indeed fallen out—the decision with regard to Mr. Genet's recall, the verdict of the jury in the case of Henfield, the supposed decree of the National Convention affecting our treaty of commerce with France.

But, with regard to the first, it would be only a reason for the measure as far as the circumstance may be supposed likely to produce a war with France. According to ordinary calculations, such a consequence ought not to be looked for; and the prudence is very questionable of manifesting by any public act that the Executive did look for it.

The second is a matter which, under the circumstances, seems not of sufficient weight. The judges who tried the cause were united in their opinion of the law. The jury are universally believed in this city to have been selected for the purpose of acquittal, so as to take off much the force of the example, and to afford no evidence that other juries would pursue the same course.

The supposed decree of the National Convention is an important consideration; but its authenticity is not yet out of question, and it could hardly be acted upon till that was ascertained. And, indeed, it will deserve examination, whether the Executive would not itself be competent to whatever it would be prudent to do in the case.

The objections to the measure at this time are, that unless there are reasons of sufficient force now for adopting it, which did not exist before, the taking the step now would impeach the omitting of it hitherto, and would expose the Executive to much criticism and animadversion; that the meeting of Congress could scarcely be accelerated for more than a month, allowing, as ought to be done, due time for the knowledge of the call to diffuse itself throughout the United States, for the members to pre-

pare for coming, and for the distant ones to perform the journey. Sufficient time ought to be given for a full house. A month is so short a period as not to form a material object, and as consequently to bring into greater question the propriety of acting upon grounds not much if any thing stronger than existed when a call would have produced a considerable acceleration. In proportion to the shortness of the period gained would be the public anxiety and alarm at the measure. It would be construed into an indication that something very extraordinary and urgent had occurred, and abroad as well as at home much speculation would be excited. This consideration, which was always a weighty objection to anticipating the meeting of Congress by a special call, has now great additional force for the reason just assigned.

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## CABINET OPINION.

August 5th, 1793.

At a meeting of the Heads of Departments and the Attorney-General at the Secretary of State's office, August 5th, 1793.

The case of the Swallow, letter of marque at New-York, desired to be sent out of our ports, as being a privateer, it is the opinion that there is no ground to make any order on the subject.

The Polly or Republican, in the hands of the marshal at New-York, on a charge of having been armed in our ports to cruise against nations at peace with the United States, it is the opinion that there is no ground to make any new order in this case.

The Little Democrat, the Vainqueur de la Bastille, the Citoyen Genet, and the Sans Culottes, a letter to be written to Mr. Genet as was determined on the 3d instant, and an instruction in conformity therewith be given to the governors. Mr. Hammond to be informed thereof, and to be assured the government will effectuate their former resolution on this subject.

The Lovely Lass, the Prince William Henry, and the Jane of Dublin, prizes to the Citoyen Genet, Mr. Genet to be written to as was agreed on the 3d instant.

The brig Fanny and ship William, reclaimed as taken within the limits of our protection, as it is expected that the Court of Admiralty may very shortly reconsider whether it will take cognizance of these cases, it is thought better to take no new measure therein for the present.

The schooner fitting out at Boston, as mentioned in a letter of Mr. Gore to Mr. Lear. The Governor of Massachusetts to be written to to suppress her.

Mr. Delaney's letter of the 24th of July, on the question whether duties are to be paid on prize goods landed for sale, it is the opinion that they are to be paid.

A letter from Mr. Genet of the 4th of August, informing the Secretary of State that certain inhabitants lately arrived from St. Domingo, are combining to form a military expedition from the territory of the United States against the constituted anthorities of the said Island. It is the opinion that the Governor of Maryland be informed thereof, (because in a verbal communication to the Secretary of State, Mr. Genet had named Baltimore as the place where the combination was forming,) and that he be desired to take measures to prevent the same.

TH. JEFERSON,
ALEXANDER HAMILTON,
H. KNOX.

The Secretary of State and Attorney-General are of opinion that Mr. Hammond be informed that measures are taking to procure restoration of the prizes the *Lovely Lass, The Prince William Henry*, and the *Jane of Dublin*, and in case that cannot be effected, that government will take the subject into further consideration.

The Secretaries of the Treasury and of War, are of opinion that Mr. Hammond be informed that measures are taking to effect the restoration of the prizes the *Lovely Lass, The Prince William Henry*, and the *Jane of Dublin;* that in case this shall not

be effected, the President considers it as incumbent upon the United States to make compensation for those prizes; and that prizes in similar circumstances which shall be hereafter brought into the ports of the United States will be restored.

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WASHINGTON TO HAMILTON.

8th August, 1793.

The present being, and being likely to continue for some time a favorable season for purchases of the public debt, and as it appears that the whole or the greatest part of the unexpended moneys of the foreign loans heretofore made, will be requisite for satisfying the approaching instalments of our debt to France, and which it has been judged expedient to pay, without deduction for any prior advance. It appearing, moreover, from the statements submitted by you to my consideration, that of the sum authorized to be borrowed by the act entitled, "An act making provision for the reduction of the public debt," there may still be procured for the purpose of that act, the sum of 1,515,98 dollars and 11 cents. I do therefore direct and require that you take immediate measures for obtaining a loan or loans to the extent of the sum aforesaid, to be applied to purchases of the public debt, pursuant to the provisions of the act above mentioned.

Provided always, that the terms and conditions of the said loan or loans shall be according to law. Given under my hand at Philadelphia, the eighth day of August, 1793.

G. W.

To the Secretary of the Treasury.

You having stated to me that there will be due and payable on the first of June next, on account of the loans heretofore made by the United States in Holland, the sum of one million of florins, I do therefore hereby direct, that you will take measures for procuring in due time, by way of loan, the said sum of

one million of florins, to be applied to the payment of the aforesaid instalments. Provided always, that the terms and conditions of the said loan or loans be according to law. Given under my hand at Philadelphia, the 8th day of August, 1793.

G. W.

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### WASHINGTON TO HAMILTON.

PHILADELPHIA, Aug. 10, 1793.

DEAR SIR:

I thank you for giving me the perusal of the letters to you, which are herewith returned; and I pray you to draft, on my behalf, what you may conceive to be a short, but proper and respectful response to the letter of the Chairman, or to the resolves, or to both, as you shall judge best, (for they come in a form so unusual that I scarcely know the mode that will be *most* eligible,) and let me be furnished therewith to-morrow evening, or early on Monday morning.

*Quere.* If the introduction of G. C. in the resolutions affords a *good* occasion to notice the promptness and efficacy of his aid, and that of *all* the Governors, (as far as facts are known to me,) where there has been occasion for their exertion—would it not be good policy to make proper mention thereof?

Yours, always, GEO. WASHINGTON.

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### HAMILTON TO SHORT.

TREASURY DEPARTMENT, August 12th, 1793.

SIR:

It is thought expedient to take measures for obtaining a loan in Holland, of three millions of florins; though it should not be obtainable on lower terms than five per cent. interest, and four per cent. charges.

With a view to this, and not expecting your presence at the Hague at the time this letter shall reach Holland, I have addressed the requisite instructions for the purpose immediately to our Commissioners at Amsterdam, a copy of which is here inclosed for your information. This will explain to you the particular motive which suggested the expediency of the loan in question.

I request a co-operation on your part in whatever may be necessary to give the business its proper form.

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HAMILTON TO W. & J. WILLINK, N. & J. VAN STAPHORST AND HUBBARD, BANKERS, AMSTERDAM.

TREASURY DEPARTMENT, August 12, 1793.

GENTLEMEN:

I have lately the pleasure of your letters of the 22d of April and 1st of May.

The last was particularly acceptable, as it removed all anxiety about the June payment in a mode quite satisfactory to me.

The low prices at which our stocks have been for some time past, owing to the state of affairs in Europe (which has tended to lower them in two ways—by lessening the foreign demand, and by opening new channels for the more beneficial employment of our domestic capital), indicate the expediency of extending the purchases of stock on account of the government, which at present yields a very decided advantage.

Upon this ground it is judged advisable to endeavor to obtain a loan in Holland for three millions of florins; though better terms should not be obtainable than five per cent. interest and four per cent. charges.

Not expecting that Mr. Short will be in Holland when this letter reaches you, and having full confidence in your pure zeal for the interests of the United States, I have concluded to address an instruction for the above purpose immediately to you.

In the event, therefore, of Mr. Short's not being in Holland when this letter is received, you will take measures of yourselves to obtain a loan for the above sum, within the limit above specified.

I count, nevertheless, upon your zealous exertions, if the state of the market should possibly admit of it, to obtain the loan at a lower rate of interest. The success of your endeavors for that purpose will be particularly gratifying to me, and will be, in more than one way, useful to our affairs.

It is important, too, that I should receive the earliest advice of what you shall do.

The inclosed letter for Mr. Short advises him of the present arrangement, and desires him to co-operate in whatever may be necessary to give the business due form.

With great and real consideration and esteem, I am, &c.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Aug. 14, 1793.

The Secretary of the Treasury has the honor respectfully to communicate to the President of the United States the copy of a letter which has this moment been received from the Collector of this port, informing of the arrival of two prizes sent in by the privateers Citizen Genet and Carmagnole.

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## CABINET OPINION.

August 15, 1793.

That the Minister of the French republic be informed that the President considers the United States as bound by positive assurances, given in conformity to the laws of neutrality, to ef-

fectuate the restoration of, or to make compensation for, prizes which shall have been made of any of the parties at war with France, subsequent to the 5th day of June last, by privateers fitted out of their ports.

That it is consequently expected that he will cause restitution to be made of all prizes taken and brought into our ports subsequent to the above-mentioned day by such privateers; in defect of which the President considers it as incumbent upon the United States to indemnify the owners of those prizes; the indemnification to be reimbursed by the French nation.

That besides taking efficacious measures to prevent the future fitting out of privateers in the ports of the United States, they will not give asylum therein to any which shall have been at any time so fitted out, and will cause restitution of all such prizes as shall be hereafter brought within their ports by any of the said privateers.

That instructions be sent to the respective Governors in conformity to the above communication.

The foregoing having been duly considered, and being now unanimously approved, they are submitted to the President of the United States.

THOMAS JEFFERSON,
ALEXANDER HAMILTON,
HENRY KNOX,
EDMUND RANDOLPH.

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## CABINET OPINION.

Aug. 23d, 1793.

At a meeting of the Heads of Departments and the Attorney-General at the President's, on the 1st and 2d of August, 1793, on a review of the whole of Mr. Genet's correspondence and conduct, it was unanimously agreed, that a letter should be written to the Minister of the United States at Paris, stating the same to

him, resuming the points of difference which had arisen between the government of the United States and Mr. Genet, assigning the reasons for the opinions of the former, and desiring the recall of the latter; and that this letter, with those which have passed between Mr. Genet and the Secretary of State, and other necessary documents, shall be laid by Mr. Morris before the Executive of the French government.

At a meeting of the same at the President's, August 15th, the rough draft of the said letter, having been prepared by the Secretary of State, was read for consideration, and it was agreed that the Secretary of the Treasury should take measures for obtaining a vessel, either by hire or purchase, to be sent to France express with the dispatches when ready.

At a meeting of the same at the President's, August 20th, said letter was read and corrected by paragraphs, and finally agreed to.

At a meeting of the same at the President's, August 23d, it was agreed that the preceding letter should bear the date of the last document which is to accompany it, to wit, August 16th; and the draft of a second letter to our Minister at Paris was read and unanimously approved, and to bear date this day.

Sealed and signed this 23d day of August, 1793.

TH. JEFFERSON,
ALEXANDER HAMILTON,
H. KNOX,
EDM. RANDOLPH.

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NOTES BY HAMILTON, TO FRAME LETTER OF SECRETARY OF STATE TO GOUVERNEUR MORRIS, MINISTER AT PARIS.

1793.

I. Explanation of fitting out privateers in Charleston, put on footing of there being no law.

II. Letter persisting in objection to it.

III. Reclaims Gideon Henfield.

IV. Very moderate answer, that courts will do right.

V. Concerning sloop Republican.

1. Issuing commissions a mere consular act.
2. Insists on right of arming for defence.
3. Speaks of treaty permitting to enter.
4. Armed—to equip themselves.
5. France always in practice of issuing commissions.
6. Will give orders to consuls to take precautions to respect our territory—political opinions of President.
7. Insists on right of arming vessels—abandonment unworthy its friends.

In waiting until representatives of sovereign had resolved to adopt or reject.

VII. Complaint of proceedings of District Court against the William—persons labor secretly to have misunderstood.

VIII. Letter concerning debt—accomplish *infernal system*—since the federal government *without consulting Congress.*

IX. Awkwardness—Governor avails himself of political opinions.

X. Letter—opinions, private and public, of President—on s'est empressé Je ne scais sous quelle influence impressions étrangères—complains of obstruction to consular jurisdiction.

XI. Letter concerning sloop William requiring relinquishment.

XII. Letter concerning another vessel in same situation.

XIII. Letter concerning Little Democrat—letter on account of the *state* to augment the marine of France—commission, &c.

I. Blamed in a conversation the judicial proceedings of the consul—ought only to have made a ministerial inquiry.

1. Case of the Swallow.

### WASHINGTON TO HAMILTON.

PHILADELPHIA, Aug. 27th, 1793.

DEAR SIR:

You would oblige me by drafting an answer to the inclosed address from Richmond, Virginia.

If you can *conveniently* do it to go by the post of to-morrow, it would be wished; if not, it will do very well against Friday's post.

If you are not engaged, and will take dinner with me to-day, I should be glad of your company. Governor Blount and General Pickens will be here.

Yours always and sincerely,

GEO. WASHINGTON.

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### CABINET OPINION.

Draft by Hamilton.

Aug. 31, 1793.

At a meeting of the Heads of Departments and Attorney-General, at the President's, on the 31st day of Aug., 1793, a letter from Mr. Gore to Mr. Lear, dated Boston, Aug. 24, was read, stating that the Roland, a privateer fitted out at Boston, and furnished with a commission under the government of France, had sent a prize into that port, which, being arrested by the Marshal of the District by process from a court of justice, was rescued from his possession by Mr. Du Plaine, Consul of France, with an armed force from one of the ships of his nation. It is the opinion, that the Attorney of the District be instructed to institute such prosecution as the laws will authorize against the said Du Plaine, and to furnish to the government of the United States authentic evidence of the facts before mentioned, thereon, if it shall appear that the rescue was made by the said Du Plaine, or his order, it is the opinion that his Exequatur should be revoked;

also, that the Attorney of the District be desired to furnish copies of his applications or other correspondence with the Governor of Massachusetts relative to the several privateers and prizes which have been the subject of his letters to Mr. Lear.

A letter from Mr. Maury, Consul of the United States at Liverpool, dated July 4, 1793, was read, covering an authenticated copy of certain additional instructions from the Court of St. James to the commanders of their ships of war, dated June 8, 1793, permitting them to stop the vessels of neutral nations laden with corn, flour or meal, and bound to any port of France, and to send them into British ports; from thence they are not to be permitted to proceed to the port of any country not in amity with Great Britain. Thereupon, it is the opinion that Mr. Pinckney be provisionally instructed to make representations to the British Ministry on the said instruction as contrary to the rights of neutral nations, and to urge a revocation of the same, and full indemnification to any individuals, citizens of these States, who may in the mean time suffer loss in consequence of the said instruction. Also, that explanations be desired by Mr. Pinckney of the reasons of the distinction made in the 2d article of the said instructions between the vessels of Denmark and Sweden and those of the United States attempting to enter blockaded ports.

Information having been also received through the public papers of a decree, passed the National Assembly of France, revoking the principle of free ships making free goods, and enemy ships making enemy goods, and making it lawful to seize neutral vessels bound with provisions to any other country, and carry them into the ports of France, there to be landed and paid for. And also of another decree excepting the vessels of the United States, from the operation of the preceding decrees. It is the opinion that Mr. Morris be provisionally instructed, in case the first mentioned decrees have passed and not the exceptions, to make representations thereon to the French government as contrary to the treaty existing between the two countries, and the decree relative to provisions, contrary also to the law of nations; and to require a revocation thereof and full indemnification to any citizens of these States who may, in the mean time,

have suffered loss therefrom, and also in case the said decrees and the exceptions were both passed, that then a like indemnification be made for losses intervening between the dates of the said decrees and exceptions.

A letter from the Governor of Georgia, of the 13th instant, covering the proceedings of a Council of War, relatively to an expedition against certain towns of the Creek Nation, was communicated for consideration.

It is the opinion that the Governor of Georgia be informed that the President disapproves the measure as unauthorized by law, as contrary to the present state of affairs and to the instructions heretofore given, and expects that it will not be proceeded in; that, requiring the previous consideration of Congress, it will be submitted to them at their ensuing session, if circumstances shall not then render it unnecessary or improper; that the Governor of South Carolina be also informed that the co-operation desired of him by the Governor of Georgia is not to be afforded; and that the agent for procuring supplies of provisions for the service of the United States in Georgia, be instructed that no provisions are to be furnished on their account for the purpose of the said expedition.

THOMAS JEFFERSON,
ALEXANDER HAMILTON,
H. KNOX,
EDM. RANDOLPH.

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## WASHINGTON TO HAMILTON.

PHILADELPHIA, Sept. 6, 1798.

MY DEAR SIR:

With extreme concern I receive the expression of your apprehensions, that you are in the first stages of the prevailing fever. I hope they are groundless, notwithstanding the malignancy of the disorder is so much abated, as with proper and timely applications not much is to be dreaded.

The inclosed was written and sent to your office yesterday, with direction if you were not there to be brought back. And it would be a pleasing circumstance if a change so entirely favorable as to justify it, would permit your attendance, and to bring Mrs. Hamilton with you to dine with us at three o'clock.

I am always and affectionately yours,

GEORGE WASHINGTON.

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JEFFERSON TO HAMILTON.

PHILADELPHIA, Sept. 12, 1793.

SIR:

I have the honor to inclose you a paper delivered me by Mr. Bournonville, on the part of the Minister of France, reclaiming against the demand of tonnage on the vessels which came hither from the West Indies in their late calamity. It is urged that they were driven out of their harbors by superior force, and obliged to put to sea without water or stores, and therefore to make the first port where they could be relieved, which constitute, in their opinion, those circumstances of distress and necessity, which exempt vessels from the payment of tonnage. This case belongs to your department; I take the liberty in the absence of the President, and to save time, to transmit it to you directly for your consideration.

I have the honor to be, &c.

THOMAS JEFFERSON.

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WASHINGTON TO THE INHABITANTS OF RICHMOND AND ITS VICINITY.

September 18th, 1793.

FELLOW-CITIZENS:

Among the numerous expressions of the public sense in favor of the measures which have been adopted for the observ-

ance of neutrality in the present war of Europe, none is more grateful to me than that of Richmond and its vicinity.

The manner in which it is conveyed lays claim to my affectionate acknowledgments.

In recollecting the anticipations which were entertained of a pacific policy, as most consonant with the situation of the United States and the genius of our government, it is a pleasing reflection, that when the occasion for exemplifying it occurs, sentiments corresponding with it appear to pervade every part of the community. This steadiness of views highly honorable to the national character, is well calculated to support, in the administration of our affairs, a spirit constantly favorable to the great object of peace.

And though the best and sincerest endeavors to this end may sometimes prove ineffectual, yet it will always be a source of consolation and encouragement, that the calamities of war, if at any time they shall be experienced, have been unsought and unprovoked. Every good citizen will, then, meet events with that firmness and perseverance which naturally accompany the consciousness of a good cause—the conviction that there is no ground for self-reproach.

True to our duties and interests as Americans—firm to our purpose as lovers of peace—let us unite our fervent prayers to the Great Ruler of the universe, that the justice and moderation of all concerned may permit us to continue in the uninterrupted enjoyment of a blessing which we so greatly prize, and of which we ardently wish them a speedy and permanent participation.

GEORGE WASHINGTON.

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### WASHINGTON TO HAMILTON.

MOUNT VERNON, September 25th, 1798.

MY DEAR SIR:

I congratulate you and Mrs. Hamilton very sincerely on your recoveries from the malignant fever which prevailed in

Philadelphia, and hope you are both restored to perfect health, and that no other of the family has been seized with the disorder. In these sentiments, Mrs. Washington cordially unites with me.

From Mr. Jefferson, who has just passed this; from General Knox, who has set out for Boston; and from the accounts published in the gazettes; I conceive that, under the most favorable change that can reasonably be expected, the 1st of November is as soon as business can, with safety, be transacted in the city of Philadelphia. But it appears necessary, at all events, that the Heads of Departments should assemble, if not at that place, yet in the vicinity of it (say Germantown), at that time, where I also shall be, if well. My compliments to Mrs. Hamilton, and respects to General Schuyler and family, if you are with them.

I am always, and with much truth,

Yours, affectionately,

GEORGE WASHINGTON.

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### WASHINGTON TO HAMILTON.

MOUNT VERNON, October 14th, 1793.

DEAR SIR:

Inclosed is the duplicate of my last. The calamity which has befallen Philadelphia, and seems in no wise to abate, renders it more essential than ever for the Heads of Departments to assemble, that proper measures with respect to the public offices and papers may be adopted. It is time, also, if the President can with propriety interpose, to decide something with respect to the meeting of Congress; but what, is difficult; some being of opinion that there is no power vested in the Executive, under any circumstances, to change the place of meeting, although there is power to call Congress together upon *extraordinary* occasions; others think, admitting this, the exigency of the case

would warrant the measure. It is a delicate situation for the President to be placed in. What would you advise in this predicament? If to call Congress together, where, for the ensuing session? The public offices and papers being difficult and expensive to remove to any distance, and the delicate situation it would throw the Executive into, by naming a place far from the present establishment, my wishes would be Germantown, if the place is free from the fever, for the reasons I have mentioned; but, as none can take a more comprehensive view, and I flatter myself, a less partial one, of the subject, than yourself, and as a letter from you *may* reach me before we shall meet, I pray you to dilate fully upon the several points here brought to your consideration.

I shall be at, or somewhere about, Germantown, at the time mentioned in the inclosed, and therefore shall only add what I persuade myself you are already satisfied of, that I am, with much truth and sincerity,

Dear Sir,

Your affectionate

GEORGE WASHINGTON.

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### HAMILTON TO WASHINGTON.

2½ MILES FROM PHILADELPHIA, October 24, 1793.

SIR:

I arrived at my house yesterday evening, where I found your letter of the 14th instant; having previously received that of the 25th of September, by the circuitous route of Albany, the evening before my departure from New-York.

As to the right of the President to convene Congress out of the ordinary course, I think it stands as follows—"he may on *extraordinary occasions* convene both houses of Congress or either of them." These are the words of the Constitution. Nothing is said as to *time* or *place*—nothing restrictive as to either; I therefore think they both stand on the same footing. The discretion

of the President extends to *place* as well as time. The reason of the thing as well as the words of the Constitution would extend it to both. The usual seat of the government may be in possession of an enemy, it may be swallowed up by an earthquake.

I know of no law that abridges in this respect the discretion of the President—if a law could abridge a constitutional discretion of either branch.

But the doubt with me is whether the "extraordinary occasion" mentioned in the Constitution, be not some unforeseen occurrence in the public affairs, which renders it advisable for *the public service* to convene Congress at some *time* different from that which the Constitution or some law has established; in other words, to anticipate their ordinary meeting, to have a *special* session for a *special object of public business* out of the pre-established course.

I doubt therefore, whether the circumstance of a contagious disease existing at the seat of government, be a constitutional ground for convening Congress at *another place*, but at the same *time*, they had premeditated.

And I know that there are respectable opinions against the power of the President to change the place of meeting in such a case, so as I think to render it inexpedient to take the step.

But the President may *recommend* a meeting at some other place, as a place of preliminary rendezvous for the members of the two houses, that they may informally concert what further the exigency may require, and my *present opinion* inclines in favor of such a measure.

The question then would be, what place is the most eligible. Obvious reasons render it desirable that it should be as near Philadelphia as may consist with the motive for naming such a place, (to wit,) the safety of the members. I. Innovation upon the existing arrangement with regard to the seat of government, ought to be avoided as much as possible. II. Congress may think it necessary for regularity to go within the limits of the city (though but for an hour), to give legality by some summary act to another place of meeting; and with this view it will be convenient to meet at no great distance from the city. III. The place recommended may influence the place of session. The

President and Heads of Departments ought to be near Congress, but they cannot be long remote from their offices, and a removal of the public offices for one session would be in many ways an evil. Lastly, the less the President in such cases departs from the pre-established course, the less room there will be for cavil.

All these reasons would operate in favor of Germantown, if competent only to the momentary accommodation of Congress. Mr. Peters and some other gentlemen affirm that it is. I have myself great doubt on the point, and I have not had time to examine, but I cannot help paying deference to the opinion of those who assert its competency.

There is, however, another consideration not unworthy of attention. Experience seems to decide satisfactorily that there would be due safety at Germantown; but it is very probable, this would not appear to be the case to the members generally. The alarm appears to be greatest in proportion as you go furthest from the seat of the disease. Yet I should hope the President's recommendation stating the *fact* as evidenced by experience would appease the apprehensions of the parties concerned.

If Germantown should not be found adequate, on the score of accommodation, Trenton, Reading, Lancaster and Wilmington, are the places which present themselves to choice as most eligible; nothing more northerly or southerly ought to be thought of. A place in Pennsylvania will best please the Pennsylvanians. They would be very jealous of Trenton, and they would have some, though less jealousy of Wilmington; Lancaster would afford better accommodation than Reading. Wilmington would, I apprehend, be the most agreeable of these places to Congress.

But I am, upon the whole, of opinion that it will be best to make Germantown do if possible. It will be time enough to decide when you arrive, and the interval will be employed to examine the ground.

Mrs. Hamilton and myself are very sensible to the obliging interest you have manifested on our recovery. Exercise and northern air have restored us beyond expectation. We are very happy that Mrs. Washington and yourself escaped.

I have the honor to remain, &c.,

CABINET OPINION.

At sundry meetings of the Heads of Departments and Attorney-General, from the 1st to the 21st of November, 1793, at the President's, several matters were agreed upon as stated in the following letters from the Secretary of State, to wit:

*Nov.* 8.—Circular letter to the Representatives of France, Great Britain, Spain, and the United Netherlands, fixing provisionally the extent of our jurisdiction into the sea at a sea-league.

*Nov.* 10.—Circular letter to the District-Attorneys, notifying the same, and committing to them the taking depositions in those cases.

*Same date.*—Circular to the foreign representatives, notifying how depositions are to be taken in those cases.

The substance of the preceding letters were agreed to by all, and the rough drafts were submitted to them and approved.

*Nov.* 14.—Letter to Mr. Hammond, that the United States are not bound to restore the Rochampton. This was agreed to by all. The rough draft was submitted to be approved by Col. Hamilton and Mr. Randolph. Gen. Knox was absent on a visit to Trenton.

*Nov.* 10.—Letters to Mr. Genet and Mr. Hammond, and the 14th, to Mr. Hollingsworth, for taking depositions in the case of the Coningham and Pilgrim.

*Nov.* 15.—Letters to Genet, Hammond, and Mr. Rawle, for depositions in the case of the William.

*Nov.* 14.—Letter to Hollingsworth, to ascertain whether Mr. Morissonier had passed sentence on the Rochampton and Pilgrim.

These last-mentioned letters of the 10th, 14th, and 15th, were as to their substance agreed on by all; the drafts were only communicated to Mr. Randolph and approved by him.

*Nov.* 13.—To Mr. Hammond, inquiring when we shall have an answer on the inexecution of the treaty. The substance agreed on by all. The letter was sent off without communication, some of the gentlemen being at Germantown.

*Nov.* 22.—To Mr. Genet, returning the commissions of Pennevest and Cheni, because not addressed to the President.

*Same date.*—To Mr. Genet, inquiring whether the Lovely Lass, Prince William Henry, and Jane of Dublin, have been given up, and if not, requiring that they be now restored to owners.

These were agreed to by all as to their matter, and the letters themselves were submitted before they were sent to the President, the Secretary of War, and the Attorney-General, the Secretary of the Treasury absent.

*Same date.*—To Mr. Gore, for authentic evidence of Daunery's protest on the President's revocation of Duplaine's exequatur. The substance agreed to by all. The letter sent off before communication.

TH. JEFFERSON,
H. KNOX,
EDM. RANDOLPH,
ALEXANDER HAMILTON.

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HAMILTON TO WASHINGTON.

FAIR HILL, Nov. 3d, 1793.

SIR:

Not having been in condition to attend you yesterday, and (though free from fever) yet not being well enough to go abroad immediately, I have concluded to submit to you by a line the result of my further reflections on the subject of my last letter.

I believe it will be altogether safe for the ensuing session of Congress to be held at Philadelphia, and that the good of the public service requires it, if possible. Under the existing prospect, I do not think it would be advisable for the President to give the business a different direction by any preliminary step. But as the apprehensions of distant members will probably be too much alive, it is desirable they should, if possible, be brought in the vicinity of Philadelphia *some days* beforehand, to examine and judge for themselves. It is likely they will then be satisfied

that they can safely sit in the city. If otherwise, their sentiments concerning another place can be collected, as a guide to the President. To effect this end, I would advise that circular letters be written (say by the Attorney-General, the Secretary of State not being here) to the respective members, informally recommending to them, as on the part of the President, to repair to Germantown and its vicinity some days, not more than a week, prior to the day for the meeting of Congress; giving the reasons for this recommendation.

I prefer this to any public act, because there is an inconvenience in giving any sort of formality to an unauthoritative proceeding.

An objection to the proceeding is, that the remote Southern members cannot be reached in time. But the answer to this is, that they will probably come forward of course to some neighboring State—New-York, Delaware, or Maryland—and letters for them may be lodged in each.

With true respect and attachment, I have the honor to be, &c.

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SUNDRY MATTERS TO BE COMMUNICATED FOR THE INFORMATION OF CONGRESS, EITHER IN THE SPEECH AT THE OPENING OF THE SESSION, OR BY MESSAGES THEREAFTER, AS SHALL BE THOUGHT BEST.

Draft by Washington.

November, 1793.

Proclamation informing the United States of the actual state of things as they stood between them and the powers at war.

State of our application respecting the surrender of the Western posts.

Additional instructions of his Britannic Majesty relative to corn, &c. in neutral vessels.

State of matters as it respects our negotiations with Spain—relative to territory and the navigation of the river Mississippi.

Correspondence with Mr. Genet, minister from the French republic.

The impediments which have taken place in the intended ransom of our citizens, captives in Algiers, and treaty with the Barbary States.

Treaty attempted with the Western Indians, and the result of it.

March of the army in consequence of it delayed by the suspension we were held in thereby.

State of matters as they relate to the Creeks and Cherokees; and to the frontiers of Georgia and the South-Western Territory.

Would not a trade on *public* ground with all the bordering tribes of Indians (if they can once be made sensible of their folly by the superiority of our arms) be an effectual mean of attaching them to us by the strongest of all ties, interest?

The utility of establishing proper arsenals, unfolds itself more and more every day; and the propriety of a military academy for teaching the art of gunnery and engineering, can scarcely be doubted. A war at any time would evince the impropriety of such a neglect.

Might it not be expedient to take off the tax upon the transportation of newspapers, &c.?

An act of the legislature, south-west of the Ohio, passed November 20th, 1792, deposited in the Secretary of State's office.

As both Representatives and President are newly chosen, and it is their first meeting, may it not be a good occasion, and proper for the latter to express his sentiments of the honor conferred on him by his fellow-citizens? The former is an augmented body. The times are critical; and much temper, and cool, deliberate reflection is necessary to maintain peace with dignity and safety to the United States.

Appointments during the recess of Congress to be laid before the Senate.

## HEADS OF SUBJECTS.

By E. Randolph.

*Heads of subjects to be communicated to Congress; some at the opening, others by messages.*

1. The proclamation, and the reasons for issuing it, together with an observation on the French treaty.

2. The selling of prizes in our ports.

3. The engagement concerning compensation for vessels captured under certain circumstances.

4. The propriety of vesting the federal courts with power to aid the Executive in cases of capture.

5. The enaction of a particular penalty against consuls of foreign nations opening courts in the United States.

6. The necessity of providing means for commanding respect from foreign vessels which are refractory.

7. To submit to Congress, whether it be better to rest the jurisdictional claim into the sea as it stands, or to assert a particular distance by law.

8. The abortive attempt to treat with the Western Indians.

9. The situation of the United States with respect to France, Great Britain, and Spain.

10. Military intelligence.

11. To provide some other place for the sessions of Congress, in case that of their last sitting should be improper, &c.

12. Has any loan been effected which ought to be communicated?

*Quere.* Whether Mr. Genet's propositions as to commerce are to be sent to the Senate *executively*, or to *Congress*.

13. The memorial on the guarantee.

OBJECTS TO BE COMMUNICATED IN SPEECH AND MESSAGES.

By Hamilton.

I. Proclamation.

II. Embarrassments in carrying into execution the principles of neutrality; necessity of some auxiliary provisions by law. . . .

III. Expectation of indemnification given in relation to illegal captures.

IV. State of our affairs with regard to Great Britain, Spain, and France—claim of GUARANTEE—propositions *respecting Trade.*

V. Indian affairs—failure of Treaty—state of expedition under Wayne—prospects with regard to Southern Indians.

VI. Prudence of additional precautions for defence, as the best security for the peace of the country.

1. Fortification of principal sea-ports.
2. Corps of efficient militia.

VII. Completion of settlement of Accounts between the United and Individual States; Provision for balances.

VIII. Provision for a sinking fund.

IX. Our revenues in the aggregate have continued to answer expectation as to productiveness, but if the various objects pointed out, and which appear to be necessary to the public interest, are to be accomplished, it can hardly be hoped that there will not be a necessity for some moderate addition to them.

X. Prolongation of the Dutch instalment by way of loan ——— terms.

XI. Provision for the second instalment due to Bank of United States.

XII. For interest in the unsubscribed debt during the present year. *Quere.*

XIII. Communication of the state of cessions of Light-houses. The cession in various instances has not been entire; it has reserved a partial right of jurisdiction for *process;* consequently is not strictly conformable to law.

XIV. Commissary to receive, issue and account for all public stores, would conduce much to order and economy.

## PRESIDENT'S SPEECH.

Draft by Hamilton.

1793.

It is greatly to be lamented, for the sake of humanity, that the flame of war, which had before spread over a considerable part of Europe, has, within the present year, extended itself much further; implicating all those powers with whom the United States have the most extensive relations. When it was seen here, that almost all the maritime nations either were, or were likely soon to become parties to the war, it was natural that it should excite serious reflections about the possible consequences to this country. On the one hand, it appeared desirable, that no impressions in reference to it should exist with any of the powers engaged, of a nature to precipitate arrangements or measures tending to interrupt or endanger our peace. On the other it was probable, that designing or inconsiderate persons among ourselves, might, from different motives, embark in enterprises contrary to the duties of a nation at peace with nations at war with each other; .... and, of course, calculated to invite and to produce reprisals and hostilities. Adverting to these considerations, in a situation both new and delicate, I judged it advisable to issue a proclamation (here insert the substance of the proclamation). The effects of this measure have, I trust, neither disappointed the views which dictated it, nor disserved the true interests of our country.

The Commissioners charged with the settlement of Accounts between the United and the Individual States, completed that important business within the time limited by law; and the balances which they have reported, have been placed upon the Books of the Treasury. A copy of their Report, bearing date the day of last, will be laid before Congress for their information.

The importance of the object will justify me in recalling to your consideration the expediency of a regular and adequate provision for the redemption and discharge of the Public Debt.

Several obvious considerations render the economy of time, in relation to this measure, peculiarly interesting and desirable.

It is necessary that provision should be also made for paying the second instalment of the loan of two millions from the Bank of the United States, agreeably to the terms of that loan; the first having been paid, pursuant to the provisions for that purpose, made during the last session.

On the first day of June last an instalment of 1,000,000 of florins became payable on the loans of the United States in Holland. This was adjusted by a prolongation of the period of reimbursement, in nature of a new loan, at an interest of five per cent., for the term of ten years. The charges upon this operation were a commission of *three* per cent. It will readily be perceived that the posture of European affairs is calculated to affect unfavorably the measures of the United States for borrowing abroad.

The productiveness of the public revenues hitherto has continued to equal the anticipations which were formed of it; but it is not expected that it will prove commensurate with all the objects which have been suggested. Some auxiliary provisions will, therefore, it is presumed, be requisite; but these, it is hoped, can be made consistently with a due regard to the convenience of our citizens, who cannot but be sensible of the true wisdom of encountering a small present addition to their contributions for the public service, to avoid a future accumulation of burthens.

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### RANDOLPH TO HAMILTON.

GERMANTOWN, Nov. 15th, 1793.

SIR:

Your letter of the 9th instant was delivered to me yesterday.

It is a desirable thing for the cause of humanity, that the vessels therein described should be exempted from tonnage. But this must be the act of the legislature, and cannot arise

from the construction of the collection law—the cause of their quitting the island of St. Domingo not being the species of necessity contemplated by that act.

I have the honor to be, &c.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Nov. 23d, 1793.

The Secretary of the Treasury, upon two letters from the Minister Plenipotentiary of France to the Secretary of State, severally bearing date the 11th and 14th of November inst., respectfully reports to the President of the United States as follows:

1. The object of these letters is, to procure an engagement that the bills which the minister may draw upon the sums, which, according to the terms of the contracts respecting the French debt, would fall due in the years 1794 and 1795, shall be accepted on the part of the United States, payable at the periods stipulated for the payment of those sums respectively.

The following considerations are submitted, as militating against the proposed arrangement:

1. According to the view entertained at the Treasury of the situation of the account between France and the United States, adjusting equitably the question of depreciation, there have already been anticipated payments to France, equal or nearly equal to the sums falling due in the course of the year 1794.

2. The provision by law for discharging the principal of the French debt, contemplates only loans. Of those which have been hitherto made, the sum unexpended is not more than commensurate with a payment which is to be made on the 1st of June next, upon account of the capital of the Dutch debt. It is possible that a fund for this payment may be derived from another loan; but it is known to the President that, from advices recently received, full reliance cannot be placed on this resource,

owing to the influence of the present state of European affairs upon the measures of the United States for borrowing. It need not be observed, that a failure in making the payment referred to, would be ruinous to the credit of the United States.

The acceptance of the bills of the Minister of France, would virtually pledge the only fund of which there is, at present, a certainty for accomplishing that payment; and as this is a matter of strict obligation, directly affecting the public credit, it would not appear advisable to engage that fund for a different object, which, if the ideas of the Treasury are right with regard to the state of our account with France, does not stand upon a similar footing.

It would be manifestly unsafe to presume upon contingencies, or to enter into engagements to be executed at distant periods, when the means of execution are uncertain.

But, as there appears to be a difference of opinion between the Minister of France and the Treasury, with regard to the state of the account between the two countries, it is necessary that something on this head should be ascertained. With this view, the Secretary of the Treasury will proceed, without delay, to take arrangements for the adjustment of the account.

ALEXANDER HAMILTON,
*Secretary of the Treasury.*

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### HAMILTON TO WASHINGTON.

November 23d, 1793.

The Secretary of the Treasury presents his respects to the President. He regrets extremely that the state of his health does not permit him to attend the President to-day. He has the honor to inclose a report on two of the letters to Mr. Genet, and would have embraced the third, respecting the protested bills, if it had been in his power. But no inconvenience can in this case ensue, as the supposed mistake with regard to the funds already

promised has been adjusted, and the inclosed report embraces and answers the question of advance upon a future fund. The report would have been more full and precise, if my situation had permitted; but my frame is so disordered as almost to unfit me for business.

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JEFFERSON TO GENET.

GERMANTOWN, November 24th, 1793.

SIR:

I laid before the President of the United States your two letters of the 11th and 14th instant, on the subject of new advances of money, and they were immediately referred to the Secretary of the Treasury, within whose department subjects of this nature lie. I have now the honor of inclosing you a copy of his report thereon to the President, in answer to your letters, and of adding assurances of respect and esteem of, Sir, &c.

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HAMILTON TO JEFFERSON.

TREASURY DEPARTMENT, Nov. 30th, 1793.

SIR:

I have taken the opinion of the Attorney-General, in the case of the St. Domingo vessels mentioned in your letter of the 2d September last, which confirms that which I had before entertained, and, on further reflection, continue to entertain, namely, that those vessels do not fall within the meaning of the 38th section of the collection law, respecting vessels that put into our ports from distress or necessity, and, of course, are liable by law to the payment of the duty of tonnage, from which it is not within the compass of executive discretion to relieve them, whatever circumstances of hardship may exist.

A copy of the opinion of the Attorney-General is herewith transmitted.

The law appears more manifestly to contemplate cases of distress or necessity, from causes which compel a vessel, being on a voyage for another port, to change her destination for a port of the United States; not the case of a vessel which, induced by a civil insurrection to quit a foreign port, finds it most convenient to make a voyage to the United States.

I return, inclosed, the letter from the Vice-Consul of Virginia, and have the honor to be, with respect, &c.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Dec. 2, 1793.

The Secretary of the Treasury on the letter from the Minister Plenipotentiary of France to the Secretary of State of the 15th instant, respectfully makes the following report to the President of the United States.

It is true as alleged by the Minister, that certain drafts of his on the Treasury have not been admitted.

Some of them were predicated upon the fund engaged to him in November; but one of them for twenty thousand dollars, was expressed to be upon the funds which should be at the disposal of France in January, 1794.

With respect to the first kind, an accidental error occasioned the temporary exclusion of some drafts, which were within the proper limit. The clerk charged with registering the bills as presented, had noted one as for forty thousand dollars, which was afterwards found to be for only fourteen thousand; whereby the fund stipulated appeared to have been exceeded, when in fact there was yet a balance. But as soon as the error was discovered, the consequences were rectified.

The draft expressed to be upon funds to be at the disposal of

France in January 1794, was refused, because it was not warranted by any previous arrangement, or even notice.

The funds by arrangement put in the disposal of the minister were definite, viz., one million and five hundred thousand livres payable on the third of September last, deducting ninety-four thousand five hundred six dollars and ten and a half cents to be paid for bills drawn by the administration of St. Domingo, and one million of livres payable on the fifth day of November following. The precision given to this arrangement will be seen by the copy of my letter to him of the 24th July last, herewith communicated. No other arrangement was made.

The minister ought not to have operated upon the accessory fund of interest, for two reasons; first, because the terms of the arrangement with him did not include it; secondly, because it could only have been properly considered as payable *of course*, if it had been mutually understood as absolutely becoming due, unaffected by any antecedent payment; whereas the minister had been informed, that the advances which had been made were supposed to have exceeded the sums due, according to the stipulated course of payment.

It need only be added that to preserve order in money transactions it is essential to proceed with regularity; that an unauthorized latitude of drawing upon the Treasury could not without impropriety and inconvenience be countenanced by it, and that it was reasonable to expect that Mr. Genet, being at no greater distance than New-York, would not have undertaken to exceed the limit concerted with him, without previous notice and consent.

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## MESSAGE OF WASHINGTON.

December, 1793.

GENTLEMEN:

In my speech to the two houses of Congress at the opening of the session,* I urged the expediency of being prepared for war,

* December, 1793.

as one of the best securities to our peace. Events which seem daily to be unfolding themselves, press still more seriously upon us the duty of being so prepared, indicating that the calamities of war may, by a train of circumstances, be forced upon us, notwithstanding the most sincere desires and endeavors to cultivate and preserve peace.

I cannot therefore withhold from Congress the expression of my conviction, that the United States ought, without delay, to adopt such military arrangements as will enable them to vindicate with vigor their rights, and to repel with energy any attacks which may be made upon them; and that it may be advisable to add some propositions calculated to exempt our commerce from being the prey of foreign depredations.

The blessings of peace are, in my view, so precious, that they will continue to engage my most zealous exertions for their continuance. Under this impression, the suggestions I have made are influenced as much by a persuasion of their tendency to preserve peace, as by a sense of the necessity of being prepared for events which may not depend on our choice.

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## CABINET OPINION.

December 7, 1793.

At a meeting of the Heads of Departments and Attorney-General at the President's, on the 7th of December, 1793—

Mr. Genet's letter of Dec. 3, questioning the right of requiring the address of consular commissions to the President, was read. It is the opinion that the address may be either to the United States or to the President of the United States, but that one of these should be insisted on.

A letter from James King was read, dated Philadelphia, Nov. 25, 1793, complaining of the capture of his schooner Nancy by a British privateer and carried into New Providence, and that the court there has thrown the onus probandi on the owners, to

show that the vessel and cargo are American property. It is the opinion that Mr. King be informed, that it is a general rule that the government should not interpose individually, till a final denial of justice has taken place in the courts of the country where the wrong is done; but that, a considerable degree of information being shortly expected relative to these cases, his will be further considered and attended to at that time.

The Secretary of State informed the President that he had received a number of applications from Mr. Genet, on behalf of the refugees of St. Domingo, who have been subjected to tonnage on their vessels and duties on their property, on taking asylum in the ports of this country, into which they were forced by the misfortunes of that colony. It is the opinion that the Secretary of State may put the petitions into the hands of a member of the legislature in his private capacity, to be presented to the legislature.

TH. JEFFERSON,
EDM. RANDOLPH,
A. HAMILTON,
H. KNOX.

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### BRADFORD TO WASHINGTON—CABINET OPINION.

1793.

The Attorney-General has the honor to report, that having considered the Resolve of the Senate of the 20th instant, whereby the President of the United States is requested to lay before that body the correspondence which has been had between the Minister of the United States at the French Republic and the said Republic, and between said Minister and the office of Secretary of State—

He is of opinion that it is the duty of the Executive to withhold such parts of the said correspondence as in the judgment of the Executive shall be deemed unsafe and improper to be dis-

He also conceives that the *general* terms of the resolve exclude, in the construction of it, those just exceptions he rights of the Executive and the nature of foreign cor- ences require. Every call of this nature, where the ndence is secret and no specific object pointed at, must med to proceed upon the idea that the papers requested per to be communicated; and it could scarcely be sup- ven if the words were stronger, that the Senate intended de any letters, the disclosure of which might endanger honor or individual safety.

Attorney-General is therefore of opinion, that it will be e for the President to communicate to the Senate such the said correspondence as upon examination he shall e and proper to disclose, withholding all such as any ances may render improper to be communicated.

WM. BRADFORD.

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N TO THE SPEAKER OF THE HOUSE OF REPRESENTA- TIVES.

TREASURY DEPARTMENT, December 16th, 1793.

known that in the last session certain questions were pecting my conduct in office, which, though decided in the most satisfactory to me, were nevertheless unavoid- n the lateness of the period when they were set on foot, ated in the issue, as to have given occasion to a sugges- there was not time for a due examination. Unwilling e matter on such a footing, I have concluded to re- e House of Representatives, as I now do, that a new ay without delay be instituted in some mode, the most r an accurate and thorough investigation; and I will he more comprehensive it is, the more agreeable will

lot, however, but take the liberty of assuring the

House, that a like plan to that which was pursued in the last session, will never answer the purpose of a full and complete inquiry, while it would lay on me a burthen, with which neither a proper discharge of the current duties of my office, nor the present state of my health is compatible. The unfavorable effect upon the business of the department of the very considerable portion of my time which was engrossed by the inquiry of the last session has not yet entirely ceased.

With perfect respect, I have the honor to be, &c.

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## MESSAGE OF WASHINGTON.

Draft by Hamilton.

January, 1794.

Since the application which was made to the government of France, for the recall of its present minister, that minister has furnished new and material causes of dissatisfaction with his conduct. But these occasions of offence have hitherto passed without particular notice, in the hope that it would not be long before the arrival of an order of recall would terminate the embarrassment, and in the desire, inspired by sentiments of friendship and respect for his nation, to avoid as long as possible an act of extremity towards its agent. But a case has occurred, which is conceived to render further forbearance inconsistent with the dignity, and perhaps the safety of the United States. It is proved, as will be seen by papers now transmitted for the information of Congress, that this foreign agent has proceeded to the extraordinary lengths of issuing commissions in the name of the French republic, to several of our citizens, for the purpose of raising within the two Carolinas and Georgia, a large military force, with the declared design of employing them, in concert with such Indians as could be engaged in the enterprise, in an expedition against the colonies in our neighborhood, of a nation with whom the United States are at peace.

It would seem, likewise, from information contained in other papers, herewith also communicated, that a similar attempt has been going on in another quarter, namely the State of Kentucky; though the fact is not yet ascertained with the requisite authenticity.

Proceedings so unwarrantable, so derogatory to the sovereignty of the United States, so dangerous in precedent and tendency, appear to render it improper that the person chargeable with them should longer continue to exercise the functions and enjoy the privileges of a diplomatic character.

The supersedure of the exercise of those functions, nevertheless, being a measure of great delicacy and magnitude, I have concluded not to come to an ultimate determination, without first placing the subject under the eye of Congress.

But unless the one or the other house shall, in the mean time, signify to me an opinion that it is not advisable so to do, I shall consider it my duty to adopt that measure, after the expiration of days from this communication.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, January 4th, 1794.

The Secretary of the Treasury, to whom was referred, by the President of the United States, a letter from the Minister of the French Republic to the Secretary of State, dated the 21st of December last, respectfully makes the following

*Report.*

The Minister observes, that it results from the report of the Secretary of the Treasury that upon an accidental error the interests of the French republic and the character of its representative were compromited by a refusal to accept drafts delivered to the agents by whom they were supplied, for sums due to the republic; adding to this observation the further one, that it seems to him that a like measure merited the most serious

from the construction of the collection law—the cause of their quitting the island of St. Domingo not being the species of necessity contemplated by that act.

I have the honor to be, &c.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, Nov. 23d, 1793.

The Secretary of the Treasury, upon two letters from the Minister Plenipotentiary of France to the Secretary of State, severally bearing date the 11th and 14th of November inst., respectfully reports to the President of the United States as follows:

1. The object of these letters is, to procure an engagement that the bills which the minister may draw upon the sums, which, according to the terms of the contracts respecting the French debt, would fall due in the years 1794 and 1795, shall be accepted on the part of the United States, payable at the periods stipulated for the payment of those sums respectively.

The following considerations are submitted, as militating against the proposed arrangement:

1. According to the view entertained at the Treasury of the situation of the account between France and the United States, adjusting equitably the question of depreciation, there have already been anticipated payments to France, equal or nearly equal to the sums falling due in the course of the year 1794.

2. The provision by law for discharging the principal of the French debt, contemplates only loans. Of those which have been hitherto made, the sum unexpended is not more than commensurate with a payment which is to be made on the 1st of June next, upon account of the capital of the Dutch debt. It is possible that a fund for this payment may be derived from another loan; but it is known to the President that, from advices recently received, full reliance cannot be placed on this resource,

owing to the influence of the present state of European affairs upon the measures of the United States for borrowing. It need not be observed, that a failure in making the payment referred to, would be ruinous to the credit of the United States.

The acceptance of the bills of the Minister of France, would virtually pledge the only fund of which there is, at present, a certainty for accomplishing that payment; and as this is a matter of strict obligation, directly affecting the public credit, it would not appear advisable to engage that fund for a different object, which, if the ideas of the Treasury are right with regard to the state of our account with France, does not stand upon a similar footing.

It would be manifestly unsafe to presume upon contingencies, or to enter into engagements to be executed at distant periods, when the means of execution are uncertain.

But, as there appears to be a difference of opinion between the Minister of France and the Treasury, with regard to the state of the account between the two countries, it is necessary that something on this head should be ascertained. With this view, the Secretary of the Treasury will proceed, without delay, to take arrangements for the adjustment of the account.

ALEXANDER HAMILTON,
*Secretary of the Treasury.*

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### HAMILTON TO WASHINGTON.

November 23d, 1793.

The Secretary of the Treasury presents his respects to the President. He regrets extremely that the state of his health does not permit him to attend the President to-day. He has the honor to inclose a report on two of the letters to Mr. Genet, and would have embraced the third, respecting the protested bills, if it had been in his power. But no inconvenience can in this case ensue, as the supposed mistake with regard to the funds already

These bills had, like those first mentioned, been drawn by the administration of St. Domingo. But they had in addition been virtually accepted by the late Consul of France, in concert with its then Minister, and in conformity with an understanding between the latter and this government.

The arrival of the present Minister devolved upon him the disposal of the unfurnished residue of the fund which had been promised to his predecessor. An early opportunity was taken to intimate to him the reliance of the government, that the bills accepted as above and unpaid, would be satisfied by him out of that residue. He gave, without hesitation, a correspondent assurance, and on the third of June last addressed to the Secretary of the Treasury, a letter in the following terms, viz.: "I pray you to put hereafter in the disposition of Citizen Bournonville, Secretary of Legation of the Republic, the funds destined to the acquittal of the drafts of the Colony of St. Domingo, according to the order of payment settled between you and my predecessor."

A part of these funds was accordingly put into the hands of Mr. Bournonville, in expectation that they would be applied as had been agreed. And upon the inquiries of some of the holders of the bills at the Treasury, in whom apprehensions had been excited, they were assured that they need not entertain any, as it was the known intention of the present Minister to fulfil the engagements of his predecessor; and that funds had been furnished to him for taking up the bills which were falling due.

The Minister afterwards deemed it necessary to change the destination of these funds, as he announced in his letter of the 18th of June to the Secretary of State, and in fact refused payment of the bills.

This measure, of a nature destructive to credit, had the effect which was to have been anticipated.

The very expedient of registering at the Treasury the drafts of the Minister, was rendered necessary by a pre-existing bad state of credit. It engaged the Treasury to nothing more than to secure to those who presented bills a preference against others to whom subsequent drafts might be given, overrunning the fund

for payment; and was devised to facilitate to the Minister an auxiliary mean of credit of which he stood in need.

These unquestionable truths demonstrate that there is no room to impute to the consequences of the mistake which was committed, any deficiency of credit which may have embarrassed the operations of the Minister.

But it is a further truth, that if his credit has suffered by the refusal of the Treasury to admit his drafts, it is chiefly to be referred to the draft for 20,000 dollars predicated upon the fund to be at the disposal of France in January, which was *finally* refused, because not authorized by any previous arrangement between the government and the Minister.

The temporary demur about other bills speedily abandoned and explained, could not have had an influence bearing any proportion to that of the ultimate refusal of the above-mentioned bill.

As far as this refusal may have had a prejudicial operation, it is imputable wholly to the irregularity of having drawn the bill, not only without the consent of the government, but even contrary to an intimation from it; in a case, too, in which it was free to refuse.

That it was with the consent of the government, will not be pretended. The letter from the Secretary of the Treasury to the Minister, of the 24th of July, accompanying his former report on the subject, excludes all plea of constructive or implied consent.

That it was contrary to an intimation from the government, results from the following facts:

The Minister, by a letter of the 14th June to the Secretary of State, communicates the intention of giving to those who should furnish him with supplies, "delegations," or assignments of the debt to France in payment; desiring as a prerequisite to this operation, that the Treasury should be instructed to come to a speedy adjustment with him, of the account of the debt from the United States to France.

To this suggestion the Secretary of State, by a letter of the 19th of June, (after assuring him that instructions would be given for the settlement of the account,) replied as fol-

lows: "In the mean time, what is further to be done, will doubtless be the subject of further reflection and inquiry with you, and particularly the operation proposed in your letter will be viewed under all its aspects. Among these we think it will present itself as a measure too questionable both in principle and practicability, too deeply interesting to the credit of the United States, and too unpromising in its result to France to be found eligible to yourself. *Finally, we rest secure that what is of mutual concern will not be done but with mutual concert.*"

Without mutual concert, without even an intervening consultation for that purpose, the minister thought proper to issue his "delegations" or drafts upon a fund not embraced by any previous arrangement; and he now makes it matter of complaint that these "delegations" were not registered. Was it to have been expected that the Treasury should become the passive instrument of a measure so irregular—so unwarrantable?

But the minister, in justification of the step, makes two observations.

1. That as the 300,000 livres due the first of January, are the interest of the loan of 600,000 made by France to the United States in 1783, *the reimbursements of which are not to commence till* 1797, he can see no motive that could arrest the payment of the interest of that sum at the epoch stipulated, as long as there was due to France an equivalent.

2. That supposing the payments, which have been made by the Treasury, to exceed the amount of the sums due, he has always been firmly convinced that these advances (to which the urgent wants of France had forced a recource) would be applied to the extinction of the debt taken in totality; a measure perfectly agreeing with the clause inserted in the different contracts which expresses that the United States might, if they judged proper, liberate themselves sooner than the epoch fixed by those contracts.

These observations admit of obvious answers. 'Tis affirmed on our part, and the minister seems himself to be sensible of its truth, that our payments hitherto exceeded the sums demandable by the terms of our contracts. It may be taken for granted,

that this is the case beyond the amount of the interest of the 600,000 accruing in January. The United States are at liberty to consider the excess as an anticipation of the capital of the loans; but they are not bound to do so. They have no option to do that, or to set it off against the interest accruing on the unpaid residue of the debt. The universal course of business will justify them in the latter, and their contracts say nothing to the contrary. Not having declared a different option, they were free to pursue that alternative, and consequently, as has been said, to refuse the drafts of the minister, predicated upon the January interest.

The circumstance which he notices, of the *reimbursements of the* 600,000 *loan not commencing till* 1797, cannot affect this conclusion. These reimbursements so postponed, relate to the *capital* of the debt; and that postponement of course cannot bring into question the propriety of setting off against the *interest* annually payable, sums advanced beyond those which were antecedently due.

The conviction of the minister, that the advances which might have been made, would be deferred toward the final extinction of the debt, could be no rule to the Treasury, as long as it had not been authorized by any assurance from the government; or when it was recollected, that the propriety of a mutual previous concert, about whatever was not a matter of course, was indicated to him, not only by the reason of the thing, but by unequivocal declarations.

In fact, whether the course on which he declares himself to have relied, could have been pursued or not, depended on circumstances; that is, on the means which should exist of making intermediate payments, and postponing the advances to an ulterior arrangement; a point at this moment unascertained, from causes which have heretofore been disclosed.

But the minister not only hazarded his credit, by drawing without a previous arrangement, the bill for 20,000 dollars, payable out of the January interest; he hazarded it likewise by *actually* overdrawing the funds placed at his disposal in September and November last; so that if no mistake had occurred at the

Treasury, he might have been exposed by his own conduct to consequences which, in that respect, happened by accident.

The Secretary now proceeds to the demands contained in the memorial of the minister. These are—

1. That the state of the account of the United States with France be presented with the least possible delay.

2. That the sums, which may have been advanced to France, beyond those which were demandable on the terms of the contracts, be applied to the extinction of the debt taken in totality.

3. That, provisionally, and until the state of the account can be determined, the Secretary of the Treasury be authorized to register the "delegations," or drafts, which the minister shall have occasion to issue, to the extent of five millions tournois.

With regard to the first point, the account is now in a course of adjustment between the Comptroller, on the part of the Treasury, and Mr. Bournonville on the part of the minister. There are some points which require a mutual adjustment before they can be fixed definitively. A correct view of the account cannot be presented till these points are settled. That done, it shall be immediately laid before the President.

With regard to the second point, the Secretary is of opinion that a determination concerning it cannot now be made. The adoption of the minister's proposition would amount to an agreement to pay the accruing instalments at the periods stipulated in the contracts, though the advances which have been made should exceed them. But such an agreement cannot safely be entered into, because it is now problematical whether the Executive will be possessed in time of funds which can be applied to that purpose, without neglecting objects of positive obligation and essential to our credit, as has been already explained and communicated.

With regard to the third point, the answer to the second is an answer to this also. If rightly understood, this proposition depends upon the second. It appears necessary, first, to ascertain what is to be paid, and when it is to be paid, before any sanction can safely be given to the proposed "delegations" or drafts. This presupposes a settlement of accounts, and a further view of our pecuniary prospects.

All which is respectfully submitted.

CABINET OPINION.

January 14th, 1794.

At a meeting of the Heads of the Departments, at the President's, on the 14th day of January, 1794—

It was propounded by the President whether, in consideration of the eminent services of M. de Lafayette to the United States, and his present sufferings, it be not advisable for the President, in a *private* and *unofficial* character, to address the King of Prussia a letter, requesting his release on parole, founded on motives of personal friendship only. The opinion is, that such a letter is proper to be written.

H. KNOX,
ALEXANDER HAMILTON.
EDM. RANDOLPH.

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CABINET OPINION.

January 28th, 1794.

At a meeting of the Heads of Departments, January 28th, 1794, upon consideration of the resolution of the Senate of January 24th, 1794, calling for the correspondences therein mentioned—

General Knox is of opinion, that no part of the correspondences should be sent to the Senate:

Colonel Hamilton, that the correct mode of proceeding is to do what General Knox advises; but that the principle is safe, by excepting such parts as the President may choose to withhold:

Mr. Randolph, that all the correspondence proper, from its nature, to be communicated to the Senate, should be sent;

but that what the President thinks improper, should not be sent.

In either form, messages are recommended to be prepared.

H. KNOX,
ALEXANDER HAMILTON,
EDM. RANDOLPH.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, 10th February, 1794.

SIR:

The inclosed letter of the 27th of last month, from the Collector of Tappahannock, relates to a subject equally delicate and disagreeable. It is my duty to add, that bills have returned protested to the amount of 3,000 dollars.

This conduct, though, I trust, proceeding from no ill motive in the Collector, is of a nature so fatal to the punctual collection of the revenue, and at the same time so vitally injurious to the public credit, that I cannot forbear to submit it as my opinion, that the public good requires the superseding of the officer.

With perfect respect, &c.

ALEXANDER HAMILTON.

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### HAMILTON TO WASHINGTON.

March 8th, 1794.

The present situation of the United States is undoubtedly critical, and demands measures vigorous, though prudent. We ought to be in a respectable military posture, because war may come upon us, whether we choose it or not; and because, to be in a condition to defend ourselves, and annoy any who may

attack us, will be the best method of securing our peace. If it is known that our principal maritime points are out of the reach of any but formal serious operations, and that the government has an efficient active force in its disposal for defence or offence on an emergency, there will be much less temptation to attack us, and much more hesitation to provoke us.

It seems then advisable—

1. To fortify the principal ports in the several States (say one in each State), so as to be able to resist a merely maritime attack, or any thing but a regular siege.

2. To raise 20,000 auxiliary troops, upon a plan something like the following, viz.:

To be divided into ten regiments.

Each regiment to consist of two battalions, and of the following officers and men:

1 colonel, 2 majors, 10 captains, 20 lieutenants, 2 lieutenants and adjutants, 2 sergeant-majors, 40 sergeants, 4 musicians, and 1,000 rank and file.

These troops to be engaged upon the following terms:

To be enlisted for two years; but upon condition, that if a war should break out with any European power, they shall be obliged to serve four years from the commencement of such war, upon the same terms as the troops of the establishment.

To receive as a bounty, clothes with 12 dollars per man.

To be under an obligation to meet forty days in the year, and thirty of these days to encamp. When assembled, to be paid, officers and men, as the troops of the establishment, and to have the same subsistence and rations. To be furnished with arms and accoutrements by the United States, to be surrendered at the expiration of their term of service.

The officers in time of war to rank and rise with the officers of the military establishment. The arrangement to cease, *ipso facto*, at the expiration of a certain term (about two years).

The expense of these operations would be,

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| For the fortifications, . . . . . | $150,000 |
| For the auxiliary troops, per annum, . . . . | 350,000 |
| | $500,000 |

In addition to this, the legislature ought to vest the President of the United States with the power to lay an embargo, partial or general, and to arrest the exportation of commodities, partially or generally.

It may also deserve consideration, whether the Executive ought not to take measures to form some concert of the neutral powers for common defence.

Mr. Hamilton presents his respects to the President—submits to him some reveries which have occupied his imagination. It may be interesting for the President to consider whether some such plan is not demanded by the conjuncture of affairs; and if so, whether there ought not to be some Executive impulse. Many persons look to the President for the suggestion of measures corresponding with the exigency of affairs. As far as this idea may be founded, many important and delicate ideas are involved in the consideration.

The pains taken to preserve peace, include a proportional responsibility that equal pains be taken to be prepared for war.

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## CABINET OPINION.

March 11th, 1794.

At a meeting of the Heads of Departments, and the Attorney-General, on the 11th of March, 1794—

It is advised unanimously, that Mr. Fauchet be informed, that he shall be supplied with the instalments due in September and November next, according to the manner expressed in the report of the Secretary of the Treasury to the President, on this subject.

It is proposed by the Secretary of the Treasury, and of War, and by the Attorney-General, that it be verbally stated to Mr. Fauchet, by the Secretary of State, that, notwithstanding the desire of the President to accommodate his request, the situation

of the United States will not permit him to go farther than as above mentioned.

The Secretary of State proposes, that an attempt be made to satisfy Mr. Fauchet verbally, with the foregoing engagement; but if he does not relinquish his application, that it be forwarded to Congress.

EDM. RANDOLPH.

Approved, reserving the last mentioned proposition of the Secretary of State for further consideration.

A. HAMILTON,
H. KNOX,
WM. BRADFORD.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, March 21st, 1794.

SIR:

A law having passed, to enable the President to cause a loan to be made in aid of the current receipts from the public revenues, it is urgent that measures should be taken without delay for carrying it into effect.

The inclosed statement shows the probable situation of the Treasury to the end of the ensuing quarter, as far as materials are now possessed, and manifests the necessity of an immediate aid by loan.

I therefore submit to the President the draft of a power in the usual form to authorize the making of the loan.

With perfect respect, &c.

HAMILTON TO WASHINGTON.

March 24, 1794.

SIR:

A committee of the House of Representatives, appointed to inquire into the state of the Treasury Department, is charged, among other things, to inquire into the authorities from the President to the Secretary of the Treasury respecting the making and disbursement of the loans made under the acts of the 4th and 12th August, 1790. You will perceive by the inclosed copy of a paper of this date, delivered to the committee, the opinion I entertain of the proper limits of a legislative inquiry on that subject.

But, in the event of a determination that the inquiry should be general, it becomes proper to fix with the President the true view of facts.

The real course of the transaction has been this. Before I made the disposition of any loan, I regularly communicated to the President my ideas of the proper disposition, designating how much it would be expected to pay to France—how much to draw to the United States, and always received his sanction for what was adopted and afterwards carried into execution. The communication and the sanction were verbal whenever the President was at the seat of government. In a case of absence, they were in writing. This will appear from my letters of the 10th and 14th April, 1791, and from the President's answer of the 7th of May following. My letters of the 29th July and 22d September, 1791, and of the August and 22d September, 1792, contain a further illustration of the general spirit of proceeding in the case, in regard to the consultation of the President.

The sanctions of the President were sometimes expressly, and always, as I conceived, in their spirit, founded in a material degree in the confidence that the measures proposed were guided by a just estimate on my part of circumstances, which, from situation, must have been best known to me; and that they would be always in conformity to the law.

With the most perfect respect, &c.

### CABINET OPINION.

March 26, 1794.

At a meeting of the Heads of Departments, and the Attorney-General of the United States, at the President's, on the 26th day of March, 1794—

The resolution of Congress of this date being submitted to them by the President, for their opinion as to the best mode of executing the same—

It is advised unanimously, that the Governors of the several States ought to be called upon to enforce the said embargo by the militia, whensoever it may be necessary to appeal to force.

EDM. RANDOLPH,
A. HAMILTON,
H. KNOX,
WM. BRADFORD.

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### CABINET OPINION.

March 27, 1794.

At a meeting of the Heads of Departments, and Attorney-General, March 27, 1794—

The Secretary of War, the Attorney-General, and the Secretary of State, advise that the Conyngham be not delivered up to the British owners; the Secretary of the Treasury dissenting.

The Secretary of the Treasury, the Secretary of War, and the Attorney-General, advise that the Pilgrim be delivered up to the British owners; the Secretary of State dissenting.

ALEX. HAMILTON,
H. KNOX,
WM. BRADFORD,
EDM. RANDOLPH.

## HAMILTON TO A COMMITTEE OF CONGRESS.

April 1, 1794.

In the course of the present examination, respecting the point of authority under which any portion of the moneys borrowed abroad had been drawn into the United States, the Secretary of the Treasury did make the following question:

"I ask the Committee appointed to inquire into the state of the Treasury Department, whether they expect from the Secretary of the Treasury the production of any authorities from the President to him, in reference to the loans made under the acts of the 4th and 12th of August, 1790, except such as regard merely the making of said loans, and the application and disbursement of such part of the proceeds of those loans, as were to be disbursed in foreign countries.

"I object to the being required to produce any other authorities than those excepted, for the following reasons, viz.:

"1st. Because it results, from the constitution of the Treasury Department, that all receipts and expenditures of public money, within the United States, must pass through that department, under the sanction of warrants from the Secretary, countersigned by the Comptroller, and registered by the Register; consequently, whenever a loan is made, either abroad or at home, on account of the United States, destined for disbursement within the United States, it becomes, ex officio, the province of the Treasury Department to draw the proceeds of such loan into the Treasury, and to disburse from thence, according to law.

"2d. Because, when it once appears that the President has constituted the head of a department his agent, for any general purpose, intrusted to him by law, all intermediate authorities from the President to the agent, being conformable with law, are to be presumed. The proper inquiry for the legislature must be, whether the laws have been duly executed or not; if they have been duly executed, the question of sufficiency or deficiency of authority, from the President to his agent, must be, to the legislature, immaterial and irrelevant. That question must, then, be

a matter purely between the President and the agent, not examinable by the legislature, without interfering with the province of the Chief Magistrate, to whom alone the responsibility is.

"All authority from the President to do any thing not warranted by the laws of the 4th and 12th of August, is disclaimed. A complete responsibility for the due and faithful execution of those laws, is admitted to rest on the head of the department. He claims no protection from any instruction or authority of the President, for any thing which may have been irregular or wrong, but he respectfully conceives that the competency of his authority from the President to do, what being done, is conformable with the laws, is not, under the circumstances of the case, a proper object of legislative inquiry."

Upon the consideration of which question, the Committee came to the following resolution:

"Resolved, That the Secretary of the Treasury be requested to state to the Committee, by what authority any portion of the moneys borrowed abroad have been drawn to the United States."

In consequence of which resolution the Secretary of the Treasury laid before the Committee a paper in the following words:

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### HAMILTON TO A COMMITTEE OF CONGRESS.

April 1, 1794.

*Principles and course of proceeding with regard to the disposition of the moneys borrowed abroad, by virtue of the acts of the 4th and 12th of August*, 1790, *as to the point of authority.*

It was conceived by the Secretary of the Treasury to be a clear principle, resulting from the spirit of the act constituting the Treasury Department, and from the several provisions of that act, collectively considered, that all public moneys once obtained, and destined for disbursement within the United States,

came, of course, under the direction of the officers of that department, according to their respective functions, and that no special authority extrinsic to the department was, in strictness, necessary to enable them to draw money, from whatever source originating, into the Treasury, or to issue them thence for the purposes designated by law.

It was also conceived by him to be, though a less clear principle, one most agreeable to the true spirit of the constitution of the department, as well as essential to the preservation of order and due accountability in the money transactions of the country, that even moneys procured abroad, and to be disbursed abroad, were, as to their application, to be under the direction of the same department.

Under the influence of these principles, thus entertained with different degrees of assurance (the President having determined to place the procuring of the loans under the direction of the Secretary of the Treasury), the following course of proceeding was pursued:

The Secretary obtained from the President, in the first place, a general commission to him to make the loans authorized by the two acts of the 4th and 12th of August. A copy of this commission was communicated to the House of Representatives, in the last session. No. 1 is dated the 28th of August.

He also obtained from the President an instruction, dated same day, to guide and justify him—1st, with regard to the person to be employed in Europe in negotiating the loans; 2d, with regard to the extent to which the loans under the first act, and payments on account of the foreign debt, should be carried, at all events, exclusively of the consideration of the advantageousness of the terms of the loans.

Nevertheless, from the special connection of the President with the subject, owing to the authority to borrow being immediately vested in him; from the circumstance of the existence of a particular discretion to be exercised by the President as to anticipated payments of the foreign debt; and from the official relation of each head of a department to the President; the Secretary of the Treasury considered it as his duty, from time to

time, to submit the disposition of each loan to the consideration of the President, with his reasons for such disposition, and to obtain the sanction of the President previous to carrying it into effect, which was always had.

The communications to the President and his sanctions were for the most part verbal. Two exceptions appear, from letters (herewith shown) of the Secretary to the President, of the 10th and 14th of April, and 22d of September, 1791, and from the President to him of the 7th of May, 1791, relating to a case of absence from the seat of government. These letters are evidence of the course and spirit of proceeding.

It is to be understood that the sanctions of the President were always bottomed upon the representations of the Secretary, and were always expressly or tacitly qualified with this condition, that "whatever was to be done, was to be agreeable to the laws."

Whereupon the Committee came to the following resolution:

"Resolved, That it would be satisfactory to the Committee, that the papers submitted to them April 1st, 1794, by the Secretary of the Treasury, respecting the point of authority under which moneys borrowed abroad have been drawn to the United States, should be presented to the President of the United States; and that the Secretary should obtain from him concerning the same, such declaration as the President may think proper to make."

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WASHINGTON TO HAMILTON.

Tuesday, April 8, 1794.

DEAR SIR:

Annexed to your statement of "Principles and course of Proceedings," I have given the certificate required.

I am yours always,

GEO. WASHINGTON.

WASHINGTON TO HAMILTON.

PHILADELPHIA, April 8th, 1794.

SIR:

I cannot charge my memory with all the particulars, which have passed between us, relative to the disposition of the money borrowed. Your letters, however, and my answer, which you refer to in the foregoing statement, and lately reminded me of, speak for themselves, and stand in need of no explanation.

As to verbal communications, I am satisfied that many were made by you to me on this subject; and, from my general recollection of the course of proceedings, I do not doubt that it was substantially as you have stated it in the annexed paper, and that I have approved of the measures which you from time to time proposed to me for disposing of the loans, upon the condition, that what was to be done by you should be agreeable to the laws.

I am, &c.

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HAMILTON TO WASHINGTON.

PHILADELPHIA, April 9th, 1794.

SIR:

I have analyzed the declaration which you have been pleased to make upon the copy of the paper of the first instant, delivered by me to the Committee of Inquiry into the state of the Treasury Department, and find, with regret, that the terms used are such as will enable those who are disposed to construe every thing to my disadvantage, to affirm, "that the declaration of the President has entirely waived the main point, and does not even manifest an *opinion* that the representation of the Secretary of the Treasury is well founded."

To this it would be added, that the reserve of the President is a proof that he does not think that representation true, else his

justice would have led him to rescue the officer concerned even from suspicion on the point.

That this will be the interpretation put upon your declaration, I have no doubt; and, in justice to myself, I cannot forbear to make this impression known to you, and to bring the declaration under your revision.

I am the more certain that this construction will be put upon the fact, from what has heretofore taken place. In the course of the discussion of the last session, an argument of this kind was, in private, urged against me: "If Mr. Hamilton had really acted by the authority of the President, or in due communication with him, would not the President take some method, either directly to Mr. Madison, or through Mr. Jefferson or Mr. Randolph, to make known to him that this ground of accusation did not exist? His not doing it, which may be inferred from Mr. Madison's urging the point, is a proof that there was no co-operation on his part."

In addition to this, I have learnt, from an authentic source, that a particular gentleman, supposed to possess good opportunities of information, has intimated, in a manner to induce a belief of its having come from you, that it never was your intention that any of the loans which were made should have had reference to the act making provision for the reduction of the public debt, and that you never knew any thing of the operation while it was going on.

Under all that has happened, sir, I cannot help entertaining, and frankly expressing to you, an apprehension, that false and insidious men, whom you may one day understand, taking the advantage of the want of recollection, which is natural when the mind is habitually occupied with a variety of important objects, have found means, by artful suggestions, to infuse doubts and distrusts very injurious to me.

My consciousness of what has been the real tenor of my conduct, and my conviction of the fairness and rectitude of your mind, compel me to this conclusion.

Upon this, as upon every other occasion, my desire is to encounter, directly and without detour, whatever embarrassment

may stand in my way. If contrary to what I understood from Mr. Lear, during the discussion of the matter in Congress, and inferred from the late conversations with you, the affair does not stand *well* in your mind, I request the opportunity of a full and free conference on the subject, to recapitulate and go over all the circumstances which have occurred, in the hope of recalling to your memory what may have escaped it, and with a wish to abide the result in an explicit form; that is, by a declaration which shall render the main fact unambiguous, or shall record the doubt.

As, on the one hand, I expect what is due to the situation, so, on the other, I seek no palliation of delinquency, no cover for any defect of conduct.

The situation is indeed an unpleasant one. Having conducted an important piece of public business in a spirit of confidence; dictated by an unqualified reliance, on the one hand, upon the rectitude, candor, and delicacy of the person under whom I was acting; on the other, by a persuasion that the experience of years had secured to me a reciprocal sentiment (whatever imperfections it may have otherwise discovered); and by the belief, likewise, that however particular instances might be forgotten, the general course of proceeding in so important an affair could not but be remembered; I did not look for a difficulty like that which now seems to press me. Knowing, too, that there existed in my written communications with the President (not only those which have been specified, but others), so many direct and indirect indications of what was truly the course pursued, I still less apprehended a difficulty of that nature when the occasion for explanation should occur.

Not seeking to escape responsibility for any improper execution of the laws—if any has happened—I do not imagine that want of immediate authority from the President to do what they would justify, would be suffered to remain (the appeal being made to him) a topic of objection to my conduct.

In the freedom of these remarks, I flatter myself, sir, that you will perceive nothing but that just sensibility which a man of honor, who thinks his veracity exposed to question, ought to

feel; and that you will be persuaded I continue yet to retain, undiminished, all that respect which a long established conviction of the existence of an upright and virtuous character ought to inspire.

With this sentiment, I have the honor to remain, sir, your most obedient and humble servant,

ALEXANDER HAMILTON.

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## HAMILTON TO WASHINGTON.

PHILADELPHIA, April 14th, 1794.

SIR:

The present is beyond question a great, a difficult and a perilous crisis in the affairs of this country. . . . . In such a crisis it is the duty of every man, according to situation, to contribute all in his power towards preventing evil and producing good. This consideration will, I trust, be a sufficient apology for the liberty I am about to take of submitting, without an official call, the ideas which occupy my mind concerning the actual posture of our public affairs. It cannot but be of great importance that the Chief Magistrate should be informed of the real state of things, and it is not easy for him to have this information but through those principal officers who have most frequent access to him. Hence an obligation on their part to communicate information on occasions like the present.

A course of accurate observation has impressed on my mind a full conviction, that there exist in our councils . . . . . three considerable parties,—one, decided for preserving peace by every effort which shall any way consist with the ultimate maintenance of the national honor and rights, and disposed to cultivate with all nations a friendly understanding. . . . . another, decided for war, and resolved to bring it about by every expedient which shall not too directly violate the public opinion. . . . . a third, not absolutely desirous of war, but solicitous at all events to

excite and keep alive irritation and ill-humor between the United States and Great Britain, not unwilling in the pursuit of this object to expose the peace of the country to imminent hazards.

The views of the first party in respect to the questions between Great Britain and us, favor the following course of conduct: to take effectual measures of military preparation, creating, in earnest, force and revenue—to vest the President with important powers respecting navigation and commerce for ulterior contingencies—to endeavor by another effort of negotiation, confided to hands able to manage it, and friendly to the object, to obtain reparation for the wrongs we suffer, and a demarkation of a line of conduct to govern in future—to avoid till the issue of that experiment all measures of a nature to occasion a conflict between the motives which might dispose the British Government to do us the justice to which we are entitled and the sense of its own dignity. If that experiment fails, then and not till then to resort to reprisals and war.

The views of the second party, in respect to the same questions, favor the following course of conduct: to say and to do every thing which can have a tendency to stir up the passions of the people and beget a disposition favorable to war—to make use of the inflammation which is excited in the community for the purposes of carrying through measures calculated to disgust Great Britain, and to render an accommodation impracticable without humiliation to her, which they do not believe will be submitted to; in fine, to provoke and bring on war by indirect means, without declaring it or even avowing the intention; because they know the public mind is not yet prepared for such an extremity, and they fear to encounter the direct responsibility of being the authors of a war.

The views of the third party lead them to favor the measures of the second—but without a perfect coincidence in the result. They weakly hope that they may hector and vapor with success —that the pride of Great Britain will yield to her interest, and that they may accomplish the object of perpetuating animosity between the two countries without involving war. There are some characters, not numerous, who do not belong to either of

these classes, but who fluctuate between them as, in the conflict between Reason and Passion, the one or the other prevails.

It may seem difficult to admit, in the situation of this country, that there are parties of the description of the two last; men who can either systematically meditate war or can be willing to risk it otherwise than by the use of means which they deem necessary to insure reparation for the injuries we experience.

But a due attention to the course of the human passions, as recorded in history, and exemplified by daily occurrences, is sufficient to obviate all difficulty on this head.

Wars oftener proceed from angry and perverse passions than from cool calculations of interest. This position is admitted without difficulty when we are judging of the hostile appearances in the measures of Great Britain towards this country. What reason can there be why it should not be as good a test of similar appearances on our part? As men it is equally applicable to us, —and the symptoms are strong of our being readily enough worked up into a degree of rage and frenzy, which goes very far towards silencing the voice of reason and interest.

Those who compose the parties whose measures have a war aspect, are under the influence of some of the strongest passions that can actuate human conduct. They unite from habitual feeling in an implacable hatred to Great Britain and a warm attachment to France. Their animosity against the former is inflamed by the most violent resentment for recent and unprovoked injuries—in many instances by personal loss and suffering of intimate friends and connections. Their sympathy with the latter is increased by the idea of her being engaged in defending the cause of liberty against a combination of despots, who meditate nothing less than the destruction of it throughout the world. In hostility with Britain, they seek the gratification of revenge upon a detested enemy with that of serving a favorite friend, and in this the cause of liberty. They anticipate, also, what is, in their estimation, a great political good, a more complete and permanent alienation from Great Britain, and a more close approximation to France. Those even of them who do not wish the extremity of war, consider it as a less evil than a thorough and

sincere accommodation with Great Britain, and are willing to risk the former rather than lose an opportunity so favorable as the present to extend and rivet the springs of ill-will against that nation.

However necessary it is to veil this policy in public, in private there are not much pains taken to disguise it. Some gentlemen do not scruple to say that pacification is and ought to be out of the question.

What has been heretofore said relates only to persons in public character. If we extend our view from these to the community at large, we shall there also find a considerable diversity of opinion—partisans of patience, negotiation and peace, if possible, and partisans of war. There is no doubt much of irritation now afloat; many advocates for measures tending to produce war. But it would be a great mistake to infer from these appearances that the prevailing sentiment of the country is for war—or that there would be either a willing acquiescence or a zealous cooperation in it if the proceedings of the government should not be such as to render it manifest, beyond question, that war was inevitable but by an absolute sacrifice of the rights and interests of the nation—that the race of prudence was completely run, and that nothing was done to invite hostility, or left undone to avoid it.

It is to my mind unequivocal that the great mass of opinion in the Eastern States and in the State of New-York is against war, if it can be avoided, without absolute dishonor or the ultimate sacrifice of essential rights and interests;—and I verily believe that the same sentiment is the radical one throughout the United States, *some* of the towns, perhaps, excepted; where even it is much to be doubted whether there would not be a minority for the affirmative if the naked question was presented of war, or of measures which should be acknowledged to have a tendency to promote or produce it.

The natural inference from such a state of the public mind is, that if measures are adopted with the disapprobation and dissent of a large and enlightened minority of Congress, which in the event should appear to have been obstacles to a peaceable

adjustment of our differences with Great Britain, there would be, under the pressure of the evils produced by them, a deep and extensive dissatisfaction with the conduct of the government—a loss of confidence in it, and an impatience under the measures, which war would render unavoidable.

Prosperous as is truly the situation of the country; great as would be the evils of war to it, it would hardly seem to admit of a doubt, that no chance for preserving peace ought to be lost or diminished, in compliance either with resentment, or the speculative ideas which are the arguments for a hostile course of conduct.

At no moment were the indications of a plan on the part of Great Britain to go to war with us, sufficiently decisive to preclude the hope of averting it by a negotiation conducted with prudent energy, and seconded by such military preparations as should be demonstrative of a resolution eventually to vindicate our rights. The revocation of the instructions of the 6th of November, even with the relaxation of some pretensions which Great Britain has in former wars maintained against neutral powers, is full evidence that if the system was before for war, it was then changed. The events which have taken place in Europe are of a nature to render it probable that such a system will not be revived, and that by prudent management we may still escape a calamity which we have the strongest motives, internal, as well as external, to shun.

I express myself thus, because it is certainly not an idle apprehension, that the example of France, (whose excesses are with too many an object of apology, if not of justification,) may be found to have unhinged the orderly principles of the people of this country; and that war, by putting in motion all the turbulent passions, and promoting a further assimilation of our principles with those of France, may prove to be the threshold of disorganization and anarchy.

The late successes of France have produced in this country conclusions much too sanguine with regard to the event of the contest. They no doubt afford a high probability of her being able, eventually, to defend herself, especially under a form of

administration of such unexampled vigor as that by which she has of late managed her affairs.

But there will be nothing wonderful in a total reverse of fortune during the ensuing campaign. Human nature must be an absolutely different thing in France from what it has hitherto shown itself to be throughout the globe, and in all ages, if there do not exist in a large proportion of the French nation, germs of the profoundest discontent, ready to burst into vegetation the moment there should appear an efficacious prospect of protection and shade from the progress of the invading armies. And if having possessed themselves of some of the keys of France, the principle of the commencing campaign should be different from that of the past, active field operations succeeding to the wasteful and dilatory process of sieges, who can say that victory may not so far crown the enterprises of the coalesced powers, as to open the way to an internal explosion which may prove fatal to the republic? 'Tis now evident that another vigorous campaign will be essayed by the allies. The result is, and must be, incalculable.

To you, sir, it is unnecessary to urge the extreme precariousness of the events of war. The inference to be drawn is too manifest to escape your penetration. This country ought not to set itself afloat upon an ocean so fluctuating, so dangerous, and so uncertain, but in a case of absolute necessity.

That necessity is certainly not yet apparent. The circumstances which have been noticed with regard to the recent change of conduct on the part of Great Britain, authorize a strong hope that a negotiation, conducted with ability and moderation, and supported at home by demonstrations of vigor and seriousness, would obviate those causes of collision which are the most urgent—might even terminate others, which have so long fostered dissatisfaction and enmity. There is room to suppose that the moment is peculiarly favorable to such an attempt. On this point there are symptoms of a common sentiment between the advocates and the opposers of an unembarrassed attempt to negotiate, the former desiring it from the confidence they have in its probable success, the *latter, from the same cause, endeavoring either*

*to prevent its going on under right auspices, or to clog it with impediments which will frustrate its effect.*

All ostensibly agree, that one more experiment of negotiation ought to precede actual war; but there is this serious difference in the practice. The sincere friends of peace and accommodation are for leaving things in a state which will enable Great Britain, without abandoning self-respect, to do us the justice we seek. The others are for placing things upon a footing which would involve the disgrace or disrepute of having receded through intimidation.

This last scheme indubitably ends in war. The folly is too great to be seriously entertained by the discerning part of those who affect to believe the position—that Great Britain, fortified by the alliances of the greatest part of Europe, will submit to our demands, urged with the face of coercion, and preceded by acts of reprisal. She cannot do it without renouncing her pride and her dignity, without losing her consequence and weight in the scale of nations; and, consequently, it is morally certain that she will not do it. A proper estimate of the operation of the human passions, must satisfy us that she would be less disposed to receive the law from us than from any other nation—a people recently become a nation, not long since one of her dependencies, and as yet if a Hercules, a Hercules in the cradle.

When one nation inflicts injuries upon another, which are causes of war, if this other means to negotiate before it goes to war, the usual and received course is to prepare for war, and proceed to negotiation, avoiding reprisals till the issue of the negotiation. This course is recommended by all enlightened writers on the laws of nations, as the course of moderation, propriety, and wisdom; and it is that commonly pursued, except where there is a disposition to go to war, or a commanding superiority of power.

Preparation for war, in such cases, contains in it nothing offensive. It is a mere precaution for self-defence, under circumstances which endanger the breaking out of war. It gives rise to no point of honor which can be a bar to equitable and amicable negotiation. But acts of reprisal speak a contrary effect—they

change negotiation into peremptory demand, and they brandish a rod over the party on whom the demand is made. He must be humble indeed, if he comply with the demand to avoid the stripe.

Such are the propositions which have lately appeared in the House of Representatives, for the sequestration or arrestation of British debts—for the cutting off all intercourse with Great Britain, till she shall do certain specific things. If such propositions pass, they can only be regarded as provocatives to a declaration of war by Great Britain.

The sequestration of debts is treated by all writers as one of the highest species of reprisal. It is, moreover, contrary to the most approved practice of the present century; to what may be safely pronounced to be the modern rule of the law of nations; to what is so plainly dictated by original principles of justice and good faith, that nothing but the barbarism of times in which war was the principal business of man could ever have tolerated an opposite practice; to the manifest interest of a people situated like that of the United States, which, having a vast fund of materials for improvement in various ways, ought to invite into the channels of their industry the capital of Europe, by giving to it inviolable security—which, giving little facility to extensive revenue from taxation, ought, for its own safety in war, to cherish its credit by a religious observance of the rules of credit in all their branches.

The proposition for cutting off all intercourse with Great Britain has not yet sufficiently developed itself to enable us to pronounce what it truly is. It may be so extensive in its provisions as even to include in fact, though not in form, sequestration, by rendering remittances penal or impracticable. Indeed, it can scarcely avoid so far interfering with the payment of debts already contracted, as in a great degree to amount to a virtual sequestration. But, however this may be, being adopted for the express purpose of retaliating or punishing injuries, to continue until those injuries are redressed, it is in the spirit of a reprisal. Its principle is avowedly coercion—a principle directly opposite to that of negotiation, which supposes an appeal to the reason and justice of the party. Caustic and stimulant in the highest de-

gree, it cannot fail to have a correspondent effect upon the minds of those against whom it is directed. It cannot fail to be viewed as originating in motives of the most hostile and overbearing kind—to stir up all the feelings of pride and resentment in the nation as well as in the cabinet; and, consequently, to render negotiation abortive.

It will be wonderful if the immediate effect of either of these measures be not either war or the seizure of our vessels wherever they are found, on the ground of keeping them as hostages for the debts due to the British merchants, and on the additional ground of the measures themselves being either acts of hostility or evidence of a disposition to hostility.

The interpretation will naturally be, that our views, originally pacific, have changed with the change in the affairs of France, and are now bent towards war.

The measures in question, besides the objection to them resulting from their tendency to produce war, are condemned by a comprehensive and enlightened view of their operation in other respects. They cannot but have a malignant influence upon our public and mercantile credit. They will be regarded abroad as violent and precipitate. It will be said, there is no reliance to be placed on the steadiness or solidity of concerns with this people. Every gust that arises on the political sky is the signal for measures tending to destroy their ability to pay, or to obstruct the course of payment. Instead of a people pacific, forbearing, moderate, and of rigid probity, we see in them a people turbulent, hasty, intemperate, and loose, sporting with their individual obligations, and disturbing the general course of their affairs with levity and inconsiderateness.

Such will indubitably be the comment upon our conduct. The favorable impressions now entertained of the character of our government and nation will infallibly be reversed.

The cutting off of intercourse with Great Britain, to distress her seriously, must extend to the prohibition of all her commodities, indirectly as well as directly; else it will have no other operation than to transfer the trade between the two countries to the hands of foreigners, to our disadvantage more than to that of Great Britain.

If it extends to the total prohibition of her commodities, however brought, it deprives us of a supply, for which no substitute can be found elsewhere—a supply necessary to us in peace, and more necessary to us if we are to go to war. It gives a sudden and violent blow to our revenue, which cannot easily, if at all, be repaired from other resources. It will give so great an interruption to commerce as may very possibly interfere with the payment of the duties which have heretofore accrued, and bring the Treasury to an absolute stoppage of payment—an event which would cut up credit by the roots.

The consequences of so great and so sudden a disturbance of our trade, which must affect our exports as well as our imports, cannot be calculated. An excessive rise in the price of foreign commodities—a proportionable decrease of price and demand of our own commodities—the derangement of our revenue and credit—these circumstances united may occasion the most dangerous dissatisfactions and disorders in the community, and may drive the government to a disgraceful retreat, independent of foreign causes.

To adopt the measure *in terrorem*, and postpone its operation, will be scarcely a mitigation of the evil. The expectation of it will, as to our imports, have the effect of the reality, since we must obtain what we want chiefly upon credit. Our supply and our revenue, therefore, will suffer nearly as much as if there was an immediate interrruption.

The effect with regard to our peace will be the same. The principle being menace and coercion, will equally recommend resistance to the policy as well as the pride of the other party. 'Tis only to consult our own hearts to be convinced that nations, like individuals, revolt at the idea of being guided by external compulsion. They will, at least, only yield to that idea after resistance has been fruitlessly tried in all its forms.

'Tis as great an error for a nation to overrate as to underrate itself. Presumption is as great a fault as timidity. 'Tis our error to overrate ourselves and underrate Great Britain; we forget how little we can annoy, how much we may be annoyed.

'Tis enough for us, situated as we are, to be resolved to vindi-

cate our honor and rights in the last extremity. To precipitate a great conflict of any sort is utterly unsuited to our condition, to our strength, or to our resources. This is a truth to be well weighed by every wise and dispassionate man, as the rule of public action.

There are two ideas of immense consequence to us in the event of war: the disunion of our enemies—the perfect union of our own citizens. Justice and moderation, united with firmness, are the means to secure both these advantages; injustice or intemperance will lose both.

Unanimity among ourselves, which is the most important of the two ideas, can only be secured by its being manifest, if war ensues, that it was inevitable by another course of conduct. This cannot and will not be the case, if measures so intemperate as those which are meditated take place. The inference will be, that the war was brought on by the design of some and the rashness of others. This inference will be universal in the Northern States; and to you, sir, I need not urge the importance of those States in war.

Want of unanimity will naturally tend to render the operations of war feeble and heavy, to destroy both effort and perseverance. War, undertaken under such auspices, can scarcely end in any thing better than an inglorious and disadvantageous peace. What worse it may produce is beyond the reach of human foresight.

The foregoing observations are designed to convey to the mind of the President information of the true state of things at the present juncture, and to present to his consideration the general reasons which have occurred to me against the course of proceeding which appears to be favored by a majority of the House of Representatives.

My solicitude for the public interest, according to the view I have of it, and my real respect and regard for him to whom I address myself, lead me to subjoin some reflections of a more delicate nature.

The crisis is such a one as involves the highest responsibility on the part of every one who may have to act a part in it. It is

one in which every man will be understood to be bound to act according to his judgment without concession to the ideas of others. The President, who has by the Constitution a right to object to laws, which he deems contrary to the public interest, will be considered as under an indispensable obligation to exercise that right against any measure, relating to so vast a point as that of the peace of the country, which shall not accord with his opinion. The consideration of its having been adopted by both houses of Congress and of respect for their opinions, will have no weight in such a case as a reason for forbearing to exercise the right of objection. The consequence is, that the not objecting will be deemed conclusive evidence of approbation, and will implicate the President in all the consequences of the measure.

In such a position of things, it is therefore of the utmost importance to him, as well as to the community, that he should trace out in his own mind such a plan as he thinks it would be eligible to pursue, and should endeavor, by proper and constitutional means, to give the deliberations of Congress a direction towards that plan.

Else he runs the risk of being reduced to the dilemma either of assenting to measures, which he may not approve, with a full responsibility for consequences, or of objecting to measures which have already received the sanction of the two houses of Congress, with the responsibility of having resisted and probably prevented what they meditated. Neither of these alternatives is a desirable one.

It seems advisable, then, that the President should come to a conclusion whether the plan ought to be preparation for war, and negotiation unincumbered by measures which forbid the expectation of success, or immediate measures of a coercive tendency to be accompanied with the ceremony of a demand of redress. For I believe there is no middle plan between those two courses.

If the former appears to him to be the true policy of the country, I submit it as my conviction, that it is *urgent* for him to demonstrate that opinion as a preventive of wrong measures and future embarrassment.

The mode of doing it which occurs is this: to nominate a person who will have the confidence of those who think peace still within our reach, and who may be thought qualified for the mission as envoy extraordinary to Great Britain; to announce this to the one as well as the other house of Congress, with an observation that it is done with an intention to make a solemn appeal to the justice and good sense of the British government, to avoid if possible an ulterior rupture, and adjust the causes of misunderstanding between the two countries, and with *an earnest recommendation that vigorous and effectual measures may be adopted to be prepared for war, should it become inevitable, abstaining for the present from measures which may be contrary to the spirit of an attempt to adjust existing differences by negotiation.*

Knowing as I do, sir, that I am among the persons who have been in your contemplation to be employed in the capacity I have mentioned, I should not have taken the present step, had I not been resolved at the same time to advise you with decision to drop me from the consideration, and to fix upon another character. I am not unapprised of what has been the bias of your opinion on the subject. I am well aware of all the collateral obstacles which exist; and I assure you in the utmost sincerity, that I shall be completely and entirely satisfied with the election of another.

I beg leave to add, that of the persons whom you would deem free from any constitutional objections, Mr. Jay is the only man in whose qualifications for success there would be thorough confidence, and him whom alone it would be advisable to send. I think the business would have the best chance possible in his hands, and I flatter myself that his mission would issue in a manner that would produce the most important good to the nation.

Let me add, sir, that those whom I call the sober-minded men of the country, look up to you with solicitude upon the present occasion. If happily you should be the instrument of still rescuing the country from the dangers and calamities of war, there is no part of your life, sir, which will produce to you more real satisfaction or true glory, than that which shall be distinguished by this very important service.

In any event, I cannot doubt, sir, that you will do justice to the motives which impel me, and that you will see in this proceeding another proof of my sincere wishes for your honor and happiness, and anxiety for the public weal.

With the truest respect and attachment,

I have the honor to be, &c.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, April 19, 1794.

SIR:

I have received a letter of this date from Mr. Dandridge, transmitting me two letters to you, one from Governor Mifflin, the other from John Wanton; and desiring that if any measure should be necessary to be taken relative to them, they should be reported to you.

With regard to the communication from Gov. Mifflin, the subject of it will be put in a train of examination, and the result will be communicated.

With regard to that from Mr. Wanton, I had received from Mr. Thornton, the British Vice-Consul, the inclosed state of the case of the schooner Bayonne or Boyne, which as you will perceive has been submitted to the Attorney-General for his opinion; which is, that the schooner Boyne, under the circumstances stated in that paper, "is not within the meaning of the resolves of the legislature laying an embargo, and that she ought to be permitted to proceed on her voyage to New-York."

It was my intention to have sent this morning to the Secretary of War, in order that what was proper further to be done might be determined, and correspondent instructions given to the military officer and to the collector.

I believe the opinion of the Attorney-General is right, though it puts the effect of the embargo in some jeopardy as to vessels arriving from abroad.

Perhaps the most advisable course is, to permit the present vessel, concerning which there has been some irregularity, to proceed to the port of her destination without any condition, and to consider and establish some rule of proceeding, with proper guards, for future cases.

I retain a copy of Mr. Wanton's letter, to be sent to the Collector of Newport, as it contains an impeachment of his conduct that calls for inquiry.

With the highest respect, &c.

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### HAMILTON TO WASHINGTON.

April 21, 1794.

SIR:

I lately communicated to you a letter from our Commissioners at Amsterdam, announcing the undertaking of a loan on account of the United States for three millions of florins. I submit the following application of that loan as the one which appears to me most conducive to the good of the public service:

One million of florins to be apportioned to the payment of an instalment of an equal sum of the Dutch debt, payable on the first of June next.

The residue of the loan to be transferred here, for the purpose either of payments to France or purchases of the debt, as circumstances shall dictate.

I had begun remittances, and made a provisional arrangement for the purchase of bills of the Bank of the United States, towards payment of the June instalment. But the loan supersedes the necessity of the former, and the bills remitted will serve to pay interest and premium of the old loans due and becoming due.

With the highest respect, &c.

### WASHINGTON TO HAMILTON.

PHILADELPHIA, April 22, 1794.

SIR:

Upon examining my letter to you of the 27th June, 1793, and my two powers of the 8th of August, 1793, the one for making a loan of one million of florins, and the other for making a loan of 1,515,98 dollars and 11 cents, I wish to have some explanation upon the subject of your letter of yesterday's date. The questions which arise are these: Whether the million of florins, to be borrowed for the instalment payable to Holland in June next, be not already appropriated for that purpose; and whether the appropriation now proposed of the three millions of florins will not in some measure be contrary to the appropriation contained in my power of the 8th of August, 1793? For it appears to me that I have directed the money to be borrowed under that power to be applied to the purchases of the public debt.

GEO. WASHINGTON.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, April 23d, 1794.

SIR:

When I wrote my letter to you of the 21st instant, I had entirely forgotten the existence of your two instructions of the 8th of August, owing, probably, to the effect upon my memory of my sickness, which soon after ensued. I only recollected that the loan had been authorized by me, pursuant to your special direction, and I conceived that the subject of its disposition was wholly open. I regret this circumstance, though no inconvenience could have ensued.

For I am of opinion, that until the actual investment of the moneys in purchases, they remain liable to any disposition which you may think proper, with reference to either of the two acts

of the 4th and 12th of August, 1790. The loan has been made without particular reference to either of them, agreeably to the intimation in your letter of the 27th of July, namely, that it was not your purpose, by separate instructions, to prevent the loans from being carried on without distinction in Holland. Accordingly, no distinction has been made..... And, as the contract for the loan will not be specially bottomed upon either of the acts, I conceive the instructions which have been given may be varied so as to accommodate the application to the purposes of both or either.

It is not, however, essential that any alteration should now be made. If the whole sum is to be drawn for here—as I should have to remit from hence what remains to complete the million of florins towards the payment of the next June instalment—I can fulfil this object, with convenience to the public service, by drawing upon the fund created by the last loan, .... which will leave in the Treasury here an equivalent sum applicable to purchases. This will be the same thing, in principle (without the inconvenience of a double operation), as to draw bills upon that fund, to be sold here, in order to place the proceeds in the Treasury, and to purchase other bills to remit to Holland, in order to place there a fund for the payment of the June instalment.

But if it is your intention, at all events, to *attach* the proceeds of this loan to purchases, and to exclude, absolutely, the future application of any part of it towards payments to France, or otherwise, on account of the foreign debt, I will thank you to signify your pleasure accordingly, and then the accounts of the Treasury will be so regulated as to fix that course of proceeding irrevocably.

But I think embarrassments may be found to attend this course, which prevent me from recommending it.

With the highest respect, &c.

### HAMILTON TO WASHINGTON.

April 23d, 1794.

Mr. Hamilton presents his respects to the President. . . . In compliance with the desire expressed by him, Mr. H. has made a memorandum of certain points for consideration, in preparing instructions for Mr. Jay, which are herewith sent.

*Points to be considered in the Instructions to Mr. Jay, Envoy Extraordinary to Great Britain.*

Indemnification for the depredations upon our commerce, according to a rule to be settled.

The desirable rule is, that which theoretical writers lay down as the rule of the law of nations; to wit, that none but articles by general usage deemed contraband, shall be liable to confiscation, and that the carrying of such articles shall not infect other parts of a cargo, nor even a vessel carrying them, where there are no appearances of a design to conceal.

Our treaties contain a good guide as to contraband articles, which fall under general denomination of *instrumenta belli*—instruments of war.

But if it should be found impracticable to establish this rule, the following qualifications of it occur to consideration:

1st. Whether provisions (defining what shall be such) may not be excepted, so far as to render them liable, when going to an enemy's port not blockaded, to be carried into the port of the other enemy, and converted to his use, paying the full value. A good rule for estimating this value, would be the costs and charges at the place of exportation, with the addition of per cent.

2d. Whether colony produce, going directly from the colony to the mother country, may not be added to the list of contraband articles?

Or, in the last resort, whether the rule in this particular, resulting from the instructions of the 8th of January last, may not

be admitted; to wit, that colony produce, going directly from the colony to any port in Europe, may be confiscated.

This is a principle which, it is understood, has been long adhered to by Great Britain, and finds a sanction in precedents under the ancient government of France and other maritime powers.

The indemnification for prizes made by proscribed vessels, of which an expectation has been given by the President, may be confirmed by convention.

II. Arrangement with regard to the future:

The basis to be the rule already quoted of the general law of nations.

But it is probable that the same exceptions which may be insisted upon as to indemnification for the past, will also be insisted upon as to the future.

The idea of a place blockaded or besieged by construction, which is not actually so, ought to be excluded in either case.

A stipulation against the sale of prizes in our ports, will probably be insisted upon; and it is just that it should be made.

A stipulation, that in case of war with any Indian tribe, the other party shall furnish no supplies whatever to that tribe, except such, and in such quantity only, as it was accustomed to furnish previous to the war; and the party at war to have a right to keep an agent or agents at the posts or settlements of the other party nearest to such Indians, to ascertain the faithful execution of this *stipulation.*

Grounds of adjustment with regard to the late treaty of peace.

*On the part of the British.*

1st. Indemnification for our negroes carried away.

2d. Surrender of our posts.

*On the part of the United States.*

1st. Indemnification for the obstructions to the recovery of debts not exceeding sterling.

It may be desired, and would it not be our interest to agree; that neither party shall in time of peace keep up any armed force upon the lakes, nor any fortified places nearer than miles to the lakes, except small posts for small guards (the number to be defined) stationed for the security of trading houses?

Would it not be also our interest to agree to an arrangement by which each party shall permit to the other, under due precaution and regulations, a free trade with the Indian tribes inhabiting within the limits of the other?

*Treaty of Commerce.*

The statu quo may be taken with the following exceptions:

A privilege to carry to the West India Islands in our vessels of certain burthens, (say not less than sixty tons, nor more than eighty tons,) all such articles as may now be carried thither from the United States in British bottoms; and to bring from thence directly to the United States all such articles as may now be brought from thence to the United States in British bottoms. The privilege of carrying to Great Britain and Ireland, manufactures of the United States similar to those which now are or hereafter may be allowed to be carried thither by other nations who stand on the footing of the most favored nation, and upon terms of admission equally good.

*As equivalents.*

The extra tonnage and duties on British vessels and goods imported in British vessels to be done away, and, if desired, a stipulation to be entered into, that the commodities and manufactures of Great Britain and Ireland may be imported into the United States upon terms equally good with the like commodities and manufactures of any other nation; and that the duties upon such of them as now pay ten per cent. ad valorem and upwards, shall not be increased; and that the duties upon such of them as now pay under ten per cent. ad valorem, shall not be increased beyond ten per cent.

A treaty on these terms to be made for any term not exceeding years.

But if such a treaty cannot be made, it deserves consideration, whether a treaty on the basis of the *statu quo* for a short term (say five years) may not be advisable, as an expedient for preserving peace between the two countries.

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### WASHINGTON TO HAMILTON.

April 24, 1794.

SIR:

It appears to me that my instructions of the 8th of August, 1793, have fixed the appropriation of the money to the sinking fund; and I have considerable difficulty in being convinced of my power to change it at this time. However, as I wish to see the whole subject together, it may be well for you to state to me what the embarrassments are which you suppose will arise from confining the money borrowed to the purchase of the public debt, *which* I own I am very desirous of seeing effected as fast as it can be done advantageously for the public.

GEORGE WASHINGTON.

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### CABINET OPINION.

April 24, 1794.

The Secretary of State submits to the Secretaries of the Treasury and War, whether the inclosed letters from Mr. Pinckney, or either of them, shall be sent to Congress.

E. R. is of opinion, that the letter of 28th of January, and not the other, ought to be sent.

I am of opinion that it is not advisable to send either. That of the 28th of January, contains no new substantive matter ma-

terial to the information of Congress, and mere stimulants do not seem to be necessary.

A. HAMILTON.

I do not conceive the propriety of transmitting these letters to Congress.

H. KNOX.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, April 25, 1794.

I beg leave, by way of explanation, to submit the grounds of my opinion, that the President may vary his instructions of the 8th of August last, in reference to the application of the last loan obtained in Holland.

A summary of the preceding transactions will serve to throw light upon the subject.

The President, by his commission of the 28th of August, 1790, gave full power to the Secretary of the Treasury to make the whole of the two loans contemplated by the acts of the 4th and the 12th of August.

When in the beginning of June last, certain considerations rendered it, in my judgment, expedient to obtain a further loan; I concluded to address myself to the President, not for want of power to proceed in the business; but to obtain the sanction of his opinions and instructions, as to the eligibility of the measure. This will appear from my letter of the third of that month.

After some explanatory communications, I received from the President his letter of the 27th of July, informing me of the shape the business had taken in his mind.

On the basis of that letter, I prepared the instructions of the 8th of August, which I considered merely as directions to me, from the President, in the execution of the general power of the 28th of August, 1790, to be understood in connection with the letter of the 27th of July.

The proposition in my report of the 15th of June was, that the proposed loan should be made upon the authority of both acts, and the letter of the President just mentioned, precisely declares he did not intend by separate instructions, to prevent the loans from being carried on without distinction in Holland.

Accordingly, I sent no new powers for making a further loan, but merely an *additional instruction* to make a loan of three millions of florins, on the basis of the former powers. This additional instruction, too, made no special reference to either act, but left the matter to proceed as before *without distinction.*

The consequence will be that the loan, as in all preceding cases, will be founded upon both the acts. I send for your inspection all the contracts heretofore made, as the evidence of what will be the form of the one not yet forwarded; all of which expressly and indiscriminately refer to both the acts.

The inference is, that according to the contract itself, (the formal obligatory act,) the loan will be placed upon the joint foundation of the two acts, equally applicable, therefore, to the purpose of either.

This being the case, it is in my mind a clear proposition, that the money remains in that state liable to be applied according to either or both the acts, till one of two things happens; an actual investment, or the being carried in the books of the Treasury specifically to the amount of the particular appropriation.

It appears to me that there are but two circumstances which can attach irrevocably a similar fund to a particular destination —either its being so attached in its original creation by the formal obligatory act, (to wit, the creation of the loan,) or its having received in the Treasury its ultimate form, by being carried to the account of the particular appropriation. This last, when the fund in its creation is liable to different destinations, is, as I suppose, the only thing which consummates and fixes the precise destination. It is the record, so to speak, of the sentence or *direction* of the law, ascertaining its application.

If this position be as solid as I believe it to be, it will follow that all collateral instructions of the President intervening between his original power to make the loan, and the final applica-

tion of the loan, are mere directions to the Secretary of the Treasury, binding on him until they are revoked, but revocable at pleasure by the President, until they are definitely acted upon at the Treasury.

This is my view of the subject, for troubling the President with which, I have no other motive than merely to explain the ground of an important opinion.

I proceed now to execute the order of the President, contained in his letter of yesterday.

The embarrassments, which I suppose may possibly arise from fixing at this time the destination of the fund, are connected with the following considerations:

The laws, except by the means of loans, make no provision for the payment of any part of the *principal* of the foreign debt. Instalments of the principal of the Dutch debt, are falling due yearly; the same is the case of the debt to France, deferring the computed anticipations, as has been heretofore done. Perhaps it may become the policy of the country, in a short time, to accelerate in the latter case.

The state of European affairs forbids a *reliance* on further loans there. The actual situation of the United States (and a fortiori, its possible one), is likely to call for all the aid of domestic loans, which is obtainable for domestic purposes. This resource, therefore, could not be depended upon as a substitute for foreign loans for foreign objects; still less, and for the same among other reasons, could additional taxation be counted upon.

Our credit, therefore, and in certain events our security in a degree, may depend on retaining a part of the resource in question in a situation to come in aid of both. Our credit entirely, and our security in a very small degree, are of far greater consequence than the savings to be made by the investment of 1,200,000 dollars in purchases.

Past experience admonishes to caution. The last loan of a million of florins, and the present one of three millions, are in some sort accidents. Antecedent intelligence has in each case forbidden the expectation of either, as the President will see from the letters herewith transmitted. Had these not happened,

and had the moneys originally drawn to this country for purchases been hastily so invested, our credit would in all probability have been lost; and things which we believe it of importance to have been done, would have been impracticable.

A considerable defalcation of revenue this year seems probable. I feel, in a manner not less interesting to my own reputation than to the public interest, the advantage of extensive purchases at the existing juncture—and though I think the opportunity will not escape, it enters into the plan which I should approve, to proceed gradually and circumspectly in availing ourselves of the advantage. But I do not incline either wholly to tie up the funds at this time, or to precipitate its application to that single object. I think the matter had better be left open, to be governed by circumstances as things shall unfold.

It appears to me better, at the hazard of some criticism, to waive or defer an advantage inferior in magnitude, rather than incur a probable risk of disadvantage of much greater magnitude.

It appears by the letter from the Commissioners announcing the loan already communicated to the President, that the receipts on account of it may be considerably protracted. This is a circumstance of some weight in the decision.

I submit these considerations with all deference to the decision of the President, and have the honor to be, &c.

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WASHINGTON TO HAMILTON.

PHILADELPHIA, April 27, 1794.

SIR:

I cannot, under all the circumstances of the case, satisfy myself that I am at liberty to go contrary to my last instructions; and that I have authority to direct the money, which I have expressly directed to be applied to the purchase of the public debt, to be applied to any other object.

Still, however, I am willing that the embarrassments, which

you consider as probable, shall be communicated to Congress; and I have no objection to recommend to them to order the money to be reserved for the exigencies which you point out.

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### HAMILTON TO RANDOLPH.

April 27th, 1794.

DEAR SIR:

I did not receive the draft of your reply to Mr. Hammond, on the subject of the instructions of the 8th of June, till bed-time, last night, nor could I, without a much more considerable delay than seems to comport with your plan, pretend to enter into an accurate, sifting scrutiny of this paper.

I must therefore confine myself to a very few remarks.

If my memory serves me right,

I. Your position that the United States alone suffer from the operation of the above mentioned instructions, is not accurate. I take it, that provisions on board all neutral vessels going to any port of France, are liable to the same treatment, except in the single case of their going to a place blockaded or besieged, when the rigor of the law of nations is enforced against us by a *confiscation* in the first instance; whereas, in respect to Sweden and Denmark, it is mitigated by the circumstance of admonition first, and confiscation afterwards. But even in this particular, the other neutral powers (Sweden and Denmark excepted) were left in the same predicament with us. I do not understand, either, that in fact any ports of France have been deemed blockaded, so as to produce *confiscation*, except those *actually* so. But not having the instructions before me, I cannot speak with precision.

II. You seem to take the position too strictly—that none but such articles as are peculiar to war are deemed contraband. Other articles besides these are usually deemed contraband, (as

*naval stores*, which are the general instrument of commerce in time of peace, as well as a mean of war.)

III. You appeal strongly to the conduct of Great Britain for a century past, as to the question of provisions being treated as contraband, or otherwise interdicted from being carried to an enemy's country. I fear examples may be cited upon you which will include the point, and more. Is there not a treaty between Holland and England within a century, which goes much further? And you may be, perhaps, pressed by examples from other countries. I remember a declaration from France to the States General, (in the time of Louis XIV., as I believe,) which imposes much more extensive restrictions.

IV. There appears to me too much tartness, in various parts of the reply. Energy, without asperity, seems best to comport with the dignity of national language. The force ought to be more in the idea, than in the expression or manner. The subject of the paper is the instructions of the 8th of June, not those of the 6th of November. I suspect from some latter lights, which I have received, that more of justification for the former can be found in the practice of nations than I was originally aware of: and the expression of our sensibility, and the energy of our resistance ought to be proportioned to the nature of the case.

On the whole, I submit whether it be not advisable to give no other reply than a general one, declaring that the doctrines advanced in support of the instructions of the 8th of June, do not appear to us well-founded; but that being among the objects committed to Mr. Jay's negotiation, a particular reply is forborne. We are still in the path of negotiation; let us not plant it with thorns.

HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, April 28, 1794.

SIR:

I should not advise a present reference to the legislature on the subject of the application of the loan; as under the circumstances of that body at this moment, much debate would probably ensue, and perhaps no decision.

I am the less induced to advise this step; as the expedient itself will be hereafter practicable, if it shall appear to be necessary. It will be some time before the proceeds of the loan will be realized in the Treasury. When there, though the appropriation will be fixed to the sinking fund, the *actual disbursement* of the moneys may be accelerated or retarded, as may be judged advisable, according to the development of circumstances.

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HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, April 30, 1794.

SIR:

Inclosed I have the honor to send you the translation of a letter from Mr. Fauchet, of the 21st instant.

The arrangements of the Treasury have been taken so as to correspond with the epochs of promised payment; but I entertain no doubt that I can facilitate an arrangement between the Bank and Mr. Fauchet, which will accomplish in substance the object of his letter. I did not think it proper, however, to take any definitive step without previously placing the subject under the eye of the President.

The minister is desirous of securing an additional sum for satisfying two drafts of his predecessor, which he specifies. It will be within the compass of our means to perform this also; but it is not within the limit heretofore prescribed, and it in-

cludes, besides, considerations which are proper only for the decision of the President.

With perfect respect, &c.

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WASHINGTON TO HAMILTON.

PHILADELPHIA, 2d May, 1794.

SIR:

I did not think it worth while to give you the trouble of writing a formal answer, and therefore I desired the Secretary of State, who was with me on business, if he had an opportunity, to ask an explanation of the last clause in your letter of the 30th ultimo. He has just informed me, that you state that there is money in your hands applicable to the French debt; and, upon the whole, I do not see any objection to your making the payments to Mr. Fauchet, which you mention in that letter.

I return the passports signed; and I am so fully impressed with the necessity of discontinuing the issuing of them without some restrictions, that I request you will be careful in charging the collectors not to suffer any of the vessels, for which they are given, to depart without complying with the conditions expressed in your letter of this date.

I am, &c.

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HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, May 3d, 1794.

SIR:

Inclosed are copies of a letter of mine of the 25th ultimo, to the Attorney-General, and of his answer.

Concurring entirely in opinion with that officer, I am led to

bring the subject under the eye of the President only from the reflection that a foreign government is concerned in the question; and unless I receive a direction to the contrary, I shall act in conformity with that opinion. I am urged for a reply in a particular case, which will go to Europe by the vessel which shall carry Mr. Jay.

With perfect respect, &c.

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WASHINGTON TO HAMILTON.

(Private.)

May 6th, 1794.

DEAR SIR:

In answering your note of yesterday, respecting the request of Mr. Talleyrand de Perigord, I do not hesitate to declare, that I find it difficult to hit upon a line of conduct towards characters under the description that gentleman is emigrants that is satisfactory to my own mind, or, more properly, that is free from exception, by avoiding what might seem incivility on one hand, or unpleasant political consequences on the other.

I can perceive very clearly that the consequence of receiving these characters into the public rooms will be, driving the French Minister from them. His visits are much less frequent than they were, and an occurrence on Tuesday last (which shall be mentioned when you call here) has left no doubt as to the cause.

A particular introduction of these characters (out of the usual course) would, I presume, be more noticed than the reception of them in public. It has become expedient, therefore, in my opinion, that principles should be adopted in these cases (not only for the conduct of the President, but for the executive officers also) by which evils may be avoided and uniformity observed.

What these had best be deserves consideration.

My wish is, and it is not less my duty as an officer of the

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GEO. WASHINGTON.

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PHILADELPHIA, May 6, 1794.

War Departments being
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fferent from mine, I have
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ied by Mr. Jay and trans-
mitted for ratification, is to abridge the power of the Senate to judge of its merits. For according to the rules of good faith, a treaty, which is stipulated to be ratified, ought to be so, unless the conduct of the minister be disavowed and punished. 2. If he be permitted to sign a treaty of commerce, no form of expression can be devised to be inserted in it which will not be tantamount to a stipulation to ratify, or leave the matter as much at large, as if he had no such power. 3. Though, I believe, that the people of the United States desire a proper treaty of commerce with Great Britain, and we could enumerate so many articles as to insure their approbation, yet I am persuaded that no

man can undertake to say, that they would be contented with one or two articles only, as is proposed by the gentlemen.

EDMUND RANDOLPH.

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## PART OF INSTRUCTIONS TO JOHN JAY.

Draft by Hamilton.

1794.

This enumeration presents generally the object which it is desirable to comprise in a commercial treaty; not that it is expected that one can be effected with so great a latitude of advantages. If to the actual footing of our commerce and navigation with British European dominions could be added the privilege of carrying directly from the United States to the British West India Islands, in our own bottoms generally, or of certain defined burthens, the articles which, by the act of the 28th of George 3d, chapter 6th, may be carried thither in British bottoms, and of bringing from those islands directly to the United States in our bottoms of the like description, the articles which by the same act may be brought from those islands to the United States in British bottoms; this would afford an acceptable basis of a treaty for a term not exceeding fifteen years; and it would be advisable to conclude a treaty upon that basis.

But if a treaty cannot be formed upon a basis as liberal as this, it is conceived that it would not be expedient to do any thing more than to digest the articles of such a one as the British government shall appear willing to accede to: referring it here for consideration and further instruction previous to a formal conclusion.

There are other points which it would be interesting to comprehend in a treaty, and which it is presumed would not be attended with difficulty. Among these is the admission of our commodities and manufactures generally, into the European do-

minions of Great Britain, upon a footing equally good with those of other foreign countries.*

At present only certain enumerated articles are admitted. But though this enumeration embraces all the articles which it is of present material consequence to us to export to those dominions; yet in process of time an extension of the objects may become of moment. The fixing of the privileges which we now enjoy by toleration of the Company's government in the British East Indies, if any arrangement could be made with the consent of the Company for that purpose, would also be a valuable ingredient.

The foregoing is conformed to the ideas in which the Secretary at War and Attorney-General appeared to concur.

It is my opinion, that if an indemnification for the depredations committed on our trade, and the execution of those points of the treaty of peace which remain unexecuted on the part of Great Britain can be accomplished on satisfactory terms, and it should appear a necessary mean to this end, to combine a treaty of commerce for a short term on the footing of the *statu quo*, the conclusion of such a treaty would be consistent with the interests of the United States.

A. HAMILTON.

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## HAMILTON TO JAY.

PHILADELPHIA, May 6, 1794.

MY DEAR SIR:

I send you herewith sundry papers and documents which contain information that may be not useless to you in your mission. I had wished to have found leisure to say many things to you, but my occupations permit me to offer only a few loose observations.

* This is now the case, though a general impression to the contrary has prevailed. See Proclamation of 1792.

We are both impressed equally strongly with the great importance of a right adjustment of all matters of past controversy and future good understanding with Great Britain. Yet, important as this object is, it will be better to do nothing, than to do any thing that will not stand the test of the severest scrutiny—and especially, which may be construed into the relinquishment of a substantial right or interest.

The object of indemnification for the depredations committed on our trade, in consequence of the instructions of the 6th of November, is very near the hearts and feelings of the people of this country. The proceeding was an atrocious one. It would not answer in this particular to make any arrangement on the *mere appearance* of indemnification. If nothing substantial can be *agreed upon*, it will be best to content yourself with endeavoring to dispose the British Cabinet, of their own accord, to go as far as they think fit in reparation, leaving the United States at full liberty to act afterwards as they deem proper. I am however still of opinion, that *substantial* indemnification, on the principles of the instruction of January 8th, may in the last resort be admissible.

What I have said goes upon the idea of the affair of indemnification standing alone. If you can effect solid arrangements with regard to the points unexecuted of the treaty of peace, the question of indemnification may be managed with less rigor, and may be still more laxly dealt with, if a truly beneficial treaty of commerce, embracing privileges in the West India Islands, can be established. It will be worth the while of the government of this country, in such case, to satisfy, itself, its own citizens who have suffered.

The principle of Great Britain is, that a neutral nation ought not to be permitted to carry on, in time of war, a commerce with a nation at war, which it could not carry on with that nation in time of peace. It is not without importance in this question, that the peace system of France allowed our vessels access to her islands with a variety of our principal staples, and allowed us to take from thence some of their products; and that, by frequent colonial regulations, this privilege extended to almost all other articles.

The great political and commercial considerations which ought to influence the conduct of Great Britain towards this country, are familiar to you. They are strengthened by the increasing acquisitions in the West Indies, if these shall be ultimately confirmed, which seems to create an absolute dependence on us for supply.

I see not how it can be disputed with you, that this country, in a commercial sense, is more important to Great Britain than any other. The articles she takes from us are certainly precious to her; important, perhaps essential to the ordinary subsistence of her islands; not unimportant to her own subsistence *occasionally;* always very important to her manufactures, and of real consequence to her revenue. As a consumer, the paper will show that we stand unrivalled. We now consume of her exports from a million to a million and a half sterling more in value than any other foreign country; and while the consumption of other countries, from obvious causes, is likely to be stationary, that of this country is increasing, and for a long series of years will increase rapidly. Our manufactures are no doubt progressive. But our population and means progress so much faster, that our demand for manufactured supply far outgoes the progress of our faculty to manufacture. Nor can this cease to be the case for any calculable period of time.

How unwise then in Great Britain, to suffer such a state of things to remain exposed to the hazard of constant interruption and derangement, by not fixing on the basis of a good treaty the principles on which it should continue.

Among the considerations which ought to lead her to a treaty, is the obtaining a renunciation of all pretension of right to sequester or confiscate debts by way of reprisal, &c., though I have no doubt this is the modern law of nations. Yet the point of right cannot be considered so absolutely settled as not to make it interesting to fix it by treaty.

There is a fact which has escaped observation in this country, and which, as there has existed too much disposition to convulse our trade, I have not thought it prudent to bring into view, which it is interesting you should be apprised of. An act of Par-

liament (27 Geo. III., chap. 27) allows *foreign European vessels*, single decked and not exceeding seventy tons burthen, to carry to certain ports in the British West Indies, particular articles therein enumerated, and also to take from thence certain articles.

This consequently puts an end to the question of precedent, which is so strongly urged against a departure from the British navigation act in our favor, since it gives the precedent of such a departure in favor of others, and to our *exclusion*, a circumstance worthy of particular notice. Our relative situation gives us a stronger plea for an exception in our favor, than any other nation can urge. In paper B the idea of a treaty of commerce on the footing of a statu quo, for a short period (say five years), is brought into view. I should understand this as admissible *only* in the event of a satisfactory arrangement with regard to the points unexecuted of the treaty of peace.

But you will discover from your instructions, that the opinion which has prevailed is, that such a treaty of commerce ought not to be *concluded* without previous reference here for further instruction. It is desirable, however, to push the British ministry in this respect to a result, that the extent of their views may be ascertained.

The navigation of the Mississippi is to us an object of immense consequence. Besides other considerations connected with it, if the government of the United States can procure and secure the enjoyment of it to our Western country, it will be an infinitely strong link of union between that country and the Atlantic States. As its preservation will depend on the naval resources of the Atlantic States, the Western country cannot but feel that this essential interest depends on its remaining firmly united with them.

If any thing could be done with Great Britain to increase our chances for the speedy enjoyment of this right, it would be, in my judgment, a very valuable ingredient in any arrangement you could make. Nor is Great Britain without a great interest in the question, if the arrangement shall give to her a participation in that navigation, and a treaty of commerce shall admit her advantageously into this large field of commercial adventure.

May it not be possible to obtain a guarantee of our right in this particular from Great Britain, on the condition of mutual enjoyment and a trade on the same terms as to our Atlantic ports?

This is a delicate subject, not well matured in my mind. It is the more delicate, as there is at this moment a negotiation pending with Spain, in a position I believe not altogether unpromising, and ill use might be made of any overture or intimation on the subject. Indeed, in such a posture of the thing, an eventual arrangement only could be proper. I throw out the subject merely that you may contemplate it.

With the most fervent wishes for your health, comfort, and success, I remain, &c.

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TREATY PROJECT.

1794.

An import duty, not exceeding 10 per cent. ad valorem at the place of exportation, may be laid on manufactures of flax, hemp, wool, cotton, silk, furs, or of mixtures of either, of gold, silver, copper, brass, iron, steel, tin, pewter, or of which either of these metals is the material or chief value—upon flour, salted beef, pork and fish, and oils of every kind. Bar iron and bar lead, nails and spikes, steel unwrought, cables, cordage, yarn, twine and pack-thread, shall not be deemed to be included in the foregoing enumeration.

An import duty, not exceeding 15 per cent. ad valorem at the place of exportation, may be laid upon porcelain or china wares, glass and all manufactures of glass, stone and earthen wares, and generally upon all manufactures of which stone or earth is the principal material.

An import duty, not exceeding 50 per cent. ad valorem at the place of exportation, may be laid on all spirits distilled from fruits. (This is computed on a gallon of brandy costing 2s. sterling.)

An import duty, not exceeding 25 per cent. ad valorem at the place of exportation may be laid on all wines. Grain of every kind, peas and other vegetables, live cattle, pitch, tar, and turpentine, unmanufactured wood, indigo, pot and pearl ash, flax, hemp, cotton, silk, wool, shall be free from duties both on exportation and importation.

Neither party shall impose any duty on the exportation to the countries of the other of any raw material whatsoever. This prohibition shall be deemed to extend to molasses and tobacco.

An export duty, not exceeding 5 per cent. ad valorem at the place of exportation, may be imposed on all brown and clayed sugars. All articles not specified or described in the foregoing clauses, may be rated according to the discretion of each party, both as to exportation and importation; but neither party shall lay any higher duty upon any production or manufacture of the other imported into any part of the dominions of such party, than shall be laid upon the like or a similar production or manufacture of any other nation imported into the same or any other part of the dominions of the said party.

Neither party shall subject the vessels, cargoes or merchants of the other to any greater charges or burdens within its own ports, than its own vessels, cargoes and merchants shall be subject to within the ports of the other, except as to duties by way of revenue to the government, which may be regulated as either party pleases within the limits and in conformity to the principles established in this treaty.

Neither party shall grant any bounties or premiums upon its own ships, nor upon commodities imported in its own ships, which shall not extend to the ships nor to commodities imported in the ships of the other party; nor upon any commodities whatsoever, with special reference, direct or indirect, to an exportation to the countries of the other.

Neither party shall prohibit an importation into its own dominions or the vent there of any of the productions or manufactures of the other.

Neither party shall grant or allow, in consequence of any former grant, any privilege or exemption in trade to another na-

tion, which shall not be, *ipso facto*, communicated to the other party. Neither party shall grant to another nation the peculiar privileges and exemptions stipulated by this treaty, except for the peculiar considerations upon which they are herein stipulated. Peculiar privileges and exemptions and peculiar considerations shall be deemed to be those only which are contained in the stipulations of the articles.

Neither party shall reduce any existing duties upon the ships, productions or manufactures of other countries, except by virtue of a treaty founded on a reciprocation of equal privileges and exemptions with those mutually stipulated in the present treaty.

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### HAMILTON TO WASHINGTON.

PHILADELPHIA, May 9, 1794.

SIR:

The inclosed letter from Mr. Hammond, of the 6th instant, was transmitted to me by the Secretary of State, with a request that after satisfying myself of the step proper to be taken, I would communicate it to you, and notify your determination to Mr. Hammond.

The copy herewith sent of a letter from Mr. Rawle, exhibits the facts which appear in the case; and reasoning from them, the conclusion is, that the proceeding complained of is as wanton and unprovoked, as it is illegal and disorderly. There is no doubt, that justice to the parties concerned, the maintenance of the laws, and the discouragement of a practice, which attempts an usurpation of the functions of government and goes in subversion of all order, requires that steps should be seriously taken to bring the offenders to justice.

It is the opinion of the attorney of the district, that the case is not of the cognizance of the federal judiciary. Hence it becomes necessary that it should be referred to the authority of the State. But it appears to be proper under the special circum-

stances, that a letter should be written on the part of the President to the Governor of Pennsylvania, communicating the case and the complaint of the Minister, and calling upon him in earnest terms to cause the proper legal steps to be taken to bring the offenders to justice, and thereby give security to the parties and repress so exceptionable and disorderly a spirit.

With regard to the restoration of the vessel, in the condition in which she was preceding the trespass, it is not perceived that the nature of the case requires the extraordinary interposition of the government for that purpose, and the precedent might be an embarrassing one. The vessel is one belonging to citizens of the United States, employed indeed, as is now stated, by a British Consul, but for the personal accommodation of certain subjects of Great Britain; that is, to convey them to their own country, nor for a purpose properly governmental. It is not perceived that this situation sufficiently distinguishes her case from the common one of a vessel suffering injury by the trespass of unauthorized and lawless individuals, for the redress of which, including indemnification, the ordinary course of law is competent. It is not understood that there exists any impediment to the repossession of the vessel by her commander.

If these ideas are approved by the President, it will remain to direct the proper communications to the Governor and to the British Minister.

With perfect respect, &c.

P. S.—I will have the honor of waiting on the President between twelve and one o'clock, to know if he has any further commands on the subject.

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### CABINET OPINION.

May 13th, 1794.

At a meeting of the Heads of the Departments and the Attorney-General, at the house of the President of the United States, the subject of affording an auxiliary force to Major-

General Wayne, for the purpose of enabling him to make a vigorous and offensive campaign against the hostile Indians, being considered, it is advised, that he be authorized to call for two thousand mounted volunteers from Kentucky, for the period of four months, if he should judge the measure expedient.

ALEXANDER HAMILTON,
H. KNOX,
EDM. RANDOLPH,
WM. BRADFORD.

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CABINET OPINION.

May 24th, 1794.

Upon consideration of the letter of Governor Mifflin to the President of the United States, of this date, respecting his drafting one thousand men of the Western militia of this State, for the purpose of supporting the detachment directed to take possession of Presqu' Isle, he was advised [thus by Knox—the residue Hamilton's], that on mature reflection, the President is of opinion that it is advisable to suspend for the present the establishment at Presqu' Isle; that, independent of certain other considerations of delicacy and moment, which at no distant day will be better appreciated, the high probability of an immediate rupture with the six nations of Indians countenanced by late information, and increased by the recent murder of their people, appears to him a solid reason for a temporary suspension.

H. KNOX,
ALEXANDER HAMILTON,
EDM. RANDOLPH,
WM. BRADFORD.

## HAMILTON TO WASHINGTON.

May 27th, 1794.

SIR:

In answer to the inquiry you have been pleased to make, I have the honor to inform you that nothing has been yet done upon the first section of the act of the 20th of March last, which appropriates a million of dollars to defray any expense that may be incurred in relation to the intercourse between the United States and foreign nations; authorizing the President, if necessary, to borrow the whole or any part of that sum.

I should, before this, have brought that subject under the consideration of the President, but for the following reasons:

The act directs that the sum in question shall be paid out of any moneys which *may be* in the Treasury, not otherwise appropriated, but refers to *no time* as the criterion of such unappropriated moneys. To understand moneys as synonymous with funds—which was no doubt meant, as has been the frequent language of appropriation laws—and to attach the appropriation upon the funds, which, at the time of passing the act, were not otherwise appropriated, would materially endanger the adequateness of the funds, for satisfying the appropriations for the War Department, for the present year, which happens to have received the signature of the President one day later.

To act, therefore, upon the law, in this sense, would essentially embarrass that more urgent part of the public service which respects our military operations, and would no doubt contravene the intention of the legislature.

It is well understood that this intention was to postpone the object in question to a future provision, and accordingly the Committee of Ways and Means have had a special reference to it in the new taxes proposed. To construe the law according to this intention, it is necessary to wait for such further provision; for there would be no fund that could be relied upon as the basis of the loan to be obtained.

When this provision shall be made, it will remain for the

President to determine whether he will, upon contingency, incur the expense to the United States of borrowing the entire sum at once, or whether he will subdivide it, or wait a further development of circumstances respecting the probability of a call for the money before any operation is made.

But though I could not recommend an attempt to borrow the entire sum, as the business is now situated, yet, if there be any particular call for a part of it, I presume arrangements may be adopted which will procure it.

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### HAMILTON TO WASHINGTON.

PHILADELPHIA, May 27th, 1794.

SIR:

I some time since communicated an intention to withdraw from the office I hold, towards the close of the present session.

This I should now put in execution, but for the events which have lately accumulated, of a nature to render the prospects of the continuance of our peace in a considerable degree precarious. I do not perceive that I could voluntarily quit my post at such a juncture consistently with considerations either of duty or character; and therefore I find myself reluctantly obliged to defer the offer of my resignation.

But if any circumstances should have taken place in consequence of the intimation of an intention to resign, or should otherwise exist, which serve to render my continuance in office in any degree inconvenient or ineligible, I beg leave to assure you, sir, I should yield to them with all the readiness naturally inspired by an impatient desire to relinquish a situation in which even a momentary stay could only be produced by a sense of duty or reputation.

With the highest respect, I have the honor to be, &c.

### WASHINGTON TO HAMILTON.

PHILADELPHIA, May 29th, 1794.

SIR:

The communication which you made to me some time ago, of your intention to resign, and to which you refer in your letter of the 27th instant, received yesterday afternoon, I always considered as depending upon events.

Of course nothing has been done by me to render your continuance in office inconvenient or ineligible. On the contrary, I am pleased that you have determined to remain at your post until the clouds over our affairs, which have come on so fast of late, shall be dispersed.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, June 4th, 1794.

SIR:

I have the honor to reply to your letter of the 29th of May, on the subject of the million of dollars granted by the act of the 20th of March last.

As a day or two must determine the question of the fund, and will probably produce the requisite disposition concerning it, measures may be taken provisionally on that supposition. I therefore send herewith the draft of a power for making the loan, to be executed if approved.

The President, if I understand rightly, by the concluding part of his letter, is desirous of knowing whether a loan could not be engaged conditionally, to take effect when the occasion of employing the money shall occur.

I could not promise myself that this would be found practicable. Neither banks nor individuals would be willing to hold so large a sum suspended upon a contingency, at least without a considerable premium for the purpose.

The principal question therefore is, shall an absolute loan of the sum be immediately made? To this there is the strong objection of its being entirely uncertain when the money will be wanted for employment.

Perhaps it may be found most advisable to take the following course, viz.: to lodge in Holland power to make a loan of eight hundred thousand dollars, to be set on foot when the person who is charged with the negotiation with Algiers shall direct—he to be instructed not to cause the loan to be entered upon, till a probable prospect of treating *successfully* with Algiers opens—the power of borrowing the residue, to be reserved for exercise here, as occasion shall require. This division is proposed upon the consideration that a part of the sum is and may be necessary for other purposes than the Algerine business. Mr. Jay's mission is an example.

This course, while it avoids the incurring of expense which may be useless, and that for an indeterminate period, puts the thing in a train to give a more expeditious command of the money than if it were to wait, after a prospect of negotiation opens for communication here, and operations from hence.

It is probable, that a premium not exceeding two per cent., may obtain an engagement in Holland, to furnish the loan when wanted, on certain specified terms. Those of the last loan are the best that can be expected under present circumstances, namely, 5 per cent. interest, and 5 per cent. charges. This, if thought advisable, may be attempted.

The permanent removal of Mr. Short to Madrid, indicates the expediency of constituting his successor in Holland agent for future loans. An instruction of the President on this head is requested.

With perfect respect, &c.

### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, June 4th, 1794.

SIR:

Upon the receipt of the communication to you from the Governor of Pennsylvania of the 18th of April last, I put that letter and the papers attending it into the hands of the Commissioner of Revenue to examine into the suggestions made, and report to me concerning them.

The result is contained in a letter from that officer dated the 25th of April, (which hurry of business put out of sight,) and which is now communicated only for the information of the President, as the case does not seem to require any particular reply to the Governor, nor any act upon the subject; and the exhibition to him of the picture, which I believe is justly drawn of the conduct of Mr. Addison and others, would perhaps only excite useless irritation.

The removal of either of the officers objected to, after the persecution they have suffered and the perseverance they have displayed, would be a hazardous step; and a suspicion is warranted by the conduct of the parties, that it may have been recommended with an insidious view. Experience, however, may better explain in a little time, whether any concession on that point will be expedient; in which case, some means of indemnifying the officer or officers who should be removed would be demanded both by justice and policy.

With perfect respect, &c.

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### HAMILTON TO JAY.

PHILADELPHIA, June 4, 1794.

MY DEAR SIR:

The session of Congress is about to close better than I expected. All mischievous measures have been prevented, and

several good ones have been established. Among these, additional provisions of revenue and some of force, are not the least important.

But as more immediately connected with the objects of your mission, you will learn with satisfaction, that the bill which had passed the Senate before you left this, for punishing and preventing practices contrary to neutrality, has become a law, with only one material alteration, the rejection of the clause which forbids the selling of prizes. I now consider the Executive and the Judiciary, as armed with adequate means for repressing the fitting out of privateers, the taking of commissions, or enlisting in foreign service, the unauthorized undertaking of military expeditions, &c.

At Charleston some considerable irregularities have lately happened, and means have been taken and are in train, which will no doubt arrest their progress and correct the evil.

I believe it would be useful for you to collect and communicate exact information with regard to the usage of Europe as to permitting the sale of prizes in neutral countries. If this should be clearly against the toleration of the practice, the Executive might still, perhaps, disembarrass itself.

Men's minds have gotten over the irritation by which they were some time since possessed, and if Great Britain is disposed to justice, peace, and conciliation, the two countries may still arrive at a better understanding than has for some time subsisted between them. Is there not a crisis, which she ought not to suffer to pass, without laying a solid foundation for future harmony? I think there is.

Adieu, my dear sir; not knowing how far any press of business on the Department of State might delay its communications, I thought a few hasty lines would not be unacceptable.

Yours truly, &c.

### WASHINGTON TO HAMILTON.

PHILADELPHIA, 7th June, 1794.

SIR:

I approve of the plan proposed in your letter of the 4th instant, namely, that a power for making a loan of eight hundred thousand dollars be lodged in Holland, to be used at the time specified in that letter. When the business of Algiers is arranged, it will be seen whether it be proper to give the premium of two per cent. for an engagement to have the loan ready when it is wanted. The remaining two hundred thousand dollars may be reserved for the other purposes of foreign intercourse.

I presume that the power, which you design for Mr. Adams, will be of the same kind with that formerly given to his predecessor, Mr. Short. I wish you to have the two powers prepared in conformity with this letter.

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### HAMILTON TO WASHINGTON.

June 14, 1794.

The Secretary of the Treasury presents his respects to the President. He had thought that the appointment of a Supervisor for Pennsylvania might, without inconvenience, be deferred till the return of the President, and therefore deferred mentioning it; but on more particular reflection, as a new revenue year commences with the 1st of July, he believes it would be of use to accelerate the appointment.

The persons who have more particularly occurred to the inquiries of the Secretary (and his inquiries have been particular and extensive), are, General Hand, now Inspector; Col. Henry Miller, of York county; Charles Biddle, of this city; Col. Francis Nichols; M. Clarkson, Mayor; and Major Lennox.

General Hand, from situation, would claim particular con-

sideration; but the Secretary, with much esteem for that gentleman on all personal accounts, is obliged in duty to say, that he has been so materially defective in the execution of his present office as to forbid an assurance that the superior one would be executed by him with due attention and exertion. And it is of vast consequence to the revenue and to the government, that no mistake should be committed in the present choice.

Of the persons named, Col. Miller, all circumstances considered, has the judgment of the Secretary in his favor. All agree that he is a man of good character, of friendly dispositions to the government and laws of the United States, of industry, exertion, *address* and *distinguished* firmness, of adequate though not superior ability, and most likely, of any man on whom equal dependence can be placed, to have weight in the most refractory scene of this State. He is also a man of decent property, unembarrassed. Among those who warmly recommend him is Mr. Ross, Senator of this State, who lives in one of the most western counties.

Mr. Biddle has many things in his favor. Perhaps he has more ability than any of the persons named, and no doubts are entertained of his firmness, activity, or attention. His connections and influence are principally among the malcontents; but most persons who have been consulted entertain an unfavorble impression of his political principles, and think there is not full assurance that he would not sacrifice the duties of his station and the interests of the government to party considerations. He was named by the *Democratic Society* Vice-President, which he has, it seems, neither accepted nor publicly disavowed. Several attach an idea of cunning and duplicity to the character. *One* good judge of character thinks favorably of his principles, and that reliance may be placed; but the result of a comprehensive inquiry is, that there would be hazard in the appointment, and the case is believed to be one in which nothing ought to be hazarded.

Col. Nichols and Major Lennox stand nearly on a level—both men of adequate understanding, honorable characters, some property, undoubted firmness, and probable exertion; but on the

last point there is greater assurance of Major Lennox. But neither of these gentlemen seem to have that extensive notoriety and popularity of character which is desirable to assist the progress of disagreeable laws. In this particular, Mr. Miller or Mr. Biddle has greatly the advantage.

Mr. Clarkson has several things in his favor; perhaps rather more ability than most of the other persons; but he wants *bodily* activity, which may be a point of consequence; and he is said to be much embarrassed in his circumstances.

The Secretary has committed these remarks to writing, not wishing to intrude on the President to-day, and desirous of placing the subject immediately before him. If he should conclude on the person before he leaves town, it is requested that he would leave a commission, signed but not *completed*, in order that it may be previously *ascertained* whether Mr. Miller will accept.

Among the persons who have been consulted is the Attorney-General. He gave a preference to Mr. Miller. His knowledge of State characters is diffusive and accurate. Mr. Miller was lately a very promising candidate for the place of *Senator* in the Senate of the United States.

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## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, June 16th, 1794.

SIR:

It is with regret I inform you that another collector has suffered Treasury drafts to return unpaid, which were drawn upon moneys reported by him to be in his hands—Abraham Archer, Esq., of Yorktown. Inclosed are letters of apology on the subject. All the drafts which were at first declined, were afterwards paid.

I perceive nothing substantially to distinguish this case from that of the collector of Tappahannock, who was lately superseded on a similar account. Nor can I forbear, however painful

the task, to submit it as my opinion in this as in that case, that the good of the public service requires a displacement of the officer. Punctuality in this respect is too indispensable not to be made the invariable condition of continuance in office.

With perfect respect, &c.

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HAMILTON TO WASHINGTON.

PHILADELPHIA, June 22, 1794.

SIR:

The Secretary of State, on referring to you the question of the answer to be given to Mr. Hammond concerning compensation for certain captured vessels, will, I presume, transmit to you the opinions of the other gentlemen, as well as his own.

Besides the reasons hastily sketched in the memorandums given to the Secretary of State, there is one of a delicate nature, which I did not think fit to put on a paper which might become a public document, but which, I think, ought to be submitted to your consideration.

Though the form of only giving the *opinion* of the President that it was *incumbent upon* the United States to make compensation in the case has been used, yet between nation and nation this is equivalent to a *virtual* engagement that compensation will be made: and we were *all* sensible in advising the President to give that opinion, (which advice was unanimous,) that a non-compliance with it would be a serious commitment of the character of the nation, the government, and *the President.* Indeed, if the legislature should not do its part, under such circumstances, it would necessarily give birth to considerations very embarrassing to the delicacy of the President.

In such a posture of things is it not advisable to narrow the obstacles to a right issue of the business? If Mr. Jay is instructed to insert a formal *stipulation* in a *general arrangement*, the Senate only will have to concur. If provision is to be made by law,

*both houses* must concur. The difference is easily seen. And it is a case where the *point of honor* is too materially concerned not to dictate the expediency of leaving as little hazard as possible upon the issue. It is impossible that any question can arise about the *propriety* of giving this course to the business. When we are demanding compensation for our captured vessels and goods, it is the simplest thing in the world, to stipulate compensation for those of Great Britain, which we acknowledge to have been unlawfully made within our territory, or by the use of our means. It is also with me a material consideration, that the coupling this with the other objects of Mr. Jay's negotiation, may tend to disembarrass in future. If the compensation we seek fails, it may be a good answer to the claim on the other side, that they were endeavored without success to be made a subject of reciprocal stipulation. I speak with reference to the individuals concerned.

I may be, perhaps, too *nice*. But this is one of those questions in which ideas of *sincerity*, *good faith*, and *honor*, in a relation which must always engage my particular solicitude, press my judgment to a course of proceeding which is calculated to dispel all doubt.

With perfect respect, &c.

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WASHINGTON TO HAMILTON.

MOUNT VERNON, July 2d, 1794.

DEAR SIR:

Your private letter of the 22d June came to hand, and for the opinion contained in it I thank you. I always feel sincere gratification from the frankness and unreserved advice of my friends, whether it coincides with my sentiments or not.

As Congress, to whom the matter was referred, did not (from causes unknown to me) think proper to take up the subject of compensation for British vessels captured by the proscribed privateers of France; and as this is one of the subjects committed

to Mr. Jay's negotiation, or at least within his powers, I do not feel disposed to make any further, or more pointed declaration to Mr. Hammond on this head at this time. My understanding of the original communication of this business to that gentleman, differs very widely from your interpretation of it. It is well known to the late Secretary of State, that more than once, I pointedly desired that the expression might be so guarded as to convey nothing *more* than an *opinion* of the Executive. This, it may be said, (and I think) ought to have been, confirmed by the legislature; but the fact is otherwise: and although the usage of other nations may be opposed to this practice, the difference may result from the difference between their constitutions and ours, and from the prerogative of their Executives. The powers of the Executive of the United States are more definite, and better understood, perhaps, than those of almost any other country, and my aim has been, and will continue to be, neither to stretch nor relax from them in any instance whatever, unless imperious circumstances should render the measure indispensable.

Under this view of the subject, unless the case was more urgent than I think it, the matter (as it respects Mr. Hammond) had better, I conceive, remain on the footing it now stands; although I have no objection, as I had written to the Secretary of State, (before I had received your private letter) that he might be informed informally, and verbally, that the negotiation of this, as well as other matters, was transmitted to his own court.

With sincere esteem and regard, I am, &c.

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## HAMILTON TO RANDOLPH.

PHILADELPHIA, July 8th, 1794.

The Secretary of the Treasury presents his compliments to the Secretary of State; begs leave to inform him that his opinion on the question lately proposed, respecting the instruction of Mr. Jay, eventually to establish *by treaty* a concert with Sweden

and Denmark, is against the measure. The United States have peculiar advantages from situation, which would thereby be thrown into common stock without an equivalent. Denmark and Sweden are too weak and too remote to render a co-operation useful; and the entanglements of a treaty with them might be found very inconvenient. The United States had better stand upon their own ground.

If a war, on the question of neutral rights, should take place, common interest would likely secure all the co-operation which is practicable, and occasional arrangements may be made. What has been already done in this respect, appears, therefore, to be sufficient.

The subject has varied in the impression entertained of it; but the foregoing is the final result of full reflection.

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### WASHINGTON TO HAMILTON.

(PRIVATE.)

PHILADELPHIA, July 11th, 1794.

DEAR SIR:

I am sorry to hear that your little son continues indisposed, and wish you to carry him into the country for a few days, if it is conceived that exercise and change of air will be of service to him.

Before you go, or as soon after as convenient, I should be glad to receive your opinion, in writing, on the Kentucky and Georgia business—both of which have been communicated to you by the Secretaries of State and of War, or one of them, according to the information I have received.

I sincerely wish that the excursion you propose may have the desired effect.

I am, dear sir, your affectionate serv't, &c.

P.S. Have you drafted any answer yet to the letter of the Marquis of Lansdown to me, introductory of the Bishop of Autun?

## HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, July 18th, 1794.

I have considered the two subjects upon which you desire my opinion, as maturely as my situation has permitted.

With regard to the proceedings in Kentucky, I perceive nothing that can, with propriety or utility, be done; unless the Attorney-General, on full and careful examination, should be of opinion, that they furnish indictable matter—in which case, I should think it very material that prosecutions against the ostensible and leading characters should be instituted.

With regard to the affair in Georgia, the following course presents itself as eligible:

1. To urge the Governor of Georgia to employ, efficaciously, all the means in his power (that of military coercion, if necessary, excepted) to prevent the establishment supposed to be meditated, referring him to the late act of Congress, and informing him that the expense will be borne by the United States. The commanding officer of the troops of the United States to be directed to co-operate.

2. To apprise the Creek nation of the information which has been received, and to assure them that the United States will co-operate with them to prevent the intrusion, in the first instance, and afterwards to dispossess the intruders. It may, perhaps, be made a consideration for urging them to run the line of the last treaty.

3. To mention the matter informally to the Spanish commissioners; expressing the disapprobation of the government, and its intention to exert all the measures in its power to frustrate the enterprise.

I have the honor to be, with the highest respect, &c.

JAY TO HAMILTON.

LONDON, July 18th, 1794.

MY DEAR SIR:

I thank you for the printed paper you sent me, and for your letter by Mons. Cadignan. On maturely considering the latter, I took an opportunity, in an informal conversation with Lord Grenville, to communicate it to him.

Still, I am unable to say any thing decisive relative to the objects of my mission. Appearances continue to be singularly favorable; but appearances merit only a certain degree of circumspect reliance.

The delays occasioned by the new arrangement of the ministry cannot be of long continuance. Circumstances must soon constrain them to form some ultimate system relative to the United States; and although I have much reason to hope it will be favorable to our wishes, yet I confess I am not without apprehensions that certain points, not by us to be yielded, will occasion difficulties hard to surmount. Personally, I have every reason to be satisfied, and officially, I have as yet no reason to complain.

Shortly after my arrival, I dined with Lord Grenville. The cabinet ministers were present, but not a single foreigner. On Monday next I am to dine with the Lord Chancellor, and on next Friday with Mr. Pitt. I mention these facts to explain what I mean by favorable appearances. I think it best that they should remain *unmentioned*, for the present, and they make no part of my communication to Mr. Randolph or others. This is not the season for such communications; they may be misinterpreted, though not by you. I fear the posts may labor, but they must not be left. We must not make a delusive settlement, that would disunite our people, and leave seeds of discord to germinate. I will do every thing that prudence and integrity may dictate and permit; I will endeavor to accommodate rather than dispute; and if this plan should fail, decent and firm representations must conclude the business of my mission. As yet, I do

not regret any step that I have taken. I wish I may be able to say the same thing at the conclusion.

Yours, affectionately, &c.

*August 5th.*—This letter was inadvertently omitted to be sent when written. Appearances mend. Give us a fair chance.

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### HAMILTON TO WASHINGTON.

TREASURY DEPARTMENT, August 2d, 1794.

SIR:

In compliance with your requisitions, I have the honor to submit my opinion as to the course which it will be advisable for the President to pursue in regard to the armed opposition recently given in the four western counties of Pennsylvania to the execution of the laws of the United States, laying duties upon spirits distilled within the United States, and upon stills.

The case upon which an opinion is required, is summarily as follows. The four most western counties of Pennsylvania since the commencement of those laws, a period of more than three years, have been in steady and violent opposition to them. By formal public meetings of influential individuals, whose resolutions and proceedings had for undisguised objects to render the laws odious, to discountenance a compliance with them, and to intimidate individuals from accepting and executing offices under them; by a general spirit of opposition (thus fomented) among the inhabitants; by repeated instances of armed parties going in disguise to the houses of the officers of the revenue, and inflicting upon them personal violence and outrage; by general combinations to forbear a compliance with the requisitions of the laws by examples of injury to the property and insult to the persons of individuals who have shown by their conduct a disposition to comply, and by an almost universal non-compliance with the laws; their execution within the counties in question has been completely frustrated.

Various alterations have been made in the laws by the legislature to obviate, as far as possible, the objections of the inhabitants of those counties.

The executive, on its part, has been far from deficient in forbearance, lenity, or a spirit of accommodation.

But neither the legislative nor the executive accommodations have had any effect in producing compliance with the laws.

The opposition has continued and matured, till it has at length broke out in acts which are presumed to amount to treason.

Armed collections of men, with the avowed design of opposing the execution of the laws, have attacked the house of the Inspector of the Revenue, burnt and destroyed his property, and shed the blood of persons engaged in its defence; have made prisoner of the marshal of the district, and did not release him, till for the safety of his life he stipulated to execute no more processes within the disaffected counties; have compelled both him and the inspector of the revenue to fly the country by a circuitous route, to avoid personal injury, perhaps assassination; have proposed the assembling of a convention of delegates from those counties and the neighboring ones of Virginia, probably with a view to systematize measures of more effectual opposition; have forcibly seized, opened, and spoliated a mail of the United States.

What in this state of things is proper to be done? The President has, with the advice of the Heads of Departments and the Attorney-General, caused to be submitted all the evidence of the foregoing facts to the consideration of an associate judge, under the act entitled, "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion."

If the judge shall pronounce that the case described in the second section of that act exists, it will follow that a competent force of militia should be called forth and employed to suppress the insurrection, and support the civil authority in effectuating obedience to the laws and the puishment of offenders.

It appears to me that the very existence of government demands this course, and that a duty of the highest nature urges

the Chief Magistrate to pursue it. The Constitution and laws of the United States contemplate and provide for it.

What force of militia shall be called out, and from what State or States?

The force ought, if attainable, to be an imposing one, such, if practicable, as will deter from opposition, save the effusion of the blood of citizens, and serve the object to be accomplished.

The quantum must, of course, be regulated by the resistance to be expected. 'Tis computed that the four opposing counties contain upwards of sixteen thousand males of sixteen years and more, that of these about seven thousand may be expected to be armed.

'Tis possible that the union of the neighboring counties of Virginia may augment this force. 'Tis not impossible that it may receive an accession from some adjacent counties of this State on this side of the Alleghany mountains.

To be prepared for the worst, I am of opinion, that twelve thousand militia ought to be ordered to assemble; 9,000 foot and 3,000 horse. I should not propose so many horse, but for the probability that this decription of militia will be more easily procured for the service.

From what State or States shall these come?

The law contemplates that the militia of a State, in which an insurrection happens, if willing and sufficient, shall first be employed, but gives power to employ the militia of other States in the case either of refusal or insufficiency.

The Governor of Pennsylvania, in an official conference this day, gave it explicitly as his opinion to the President, that the militia of Pennsylvania alone would be found incompetent to the suppression of the insurrection.

This opinion of the Chief Magistrate of the State, is presumed to be a sufficient foundation for calling in, in the first instance, the aid of the militia of the neighboring States.

I would submit, then, that Pennsylvania be required to furnish 6,000 men, of whom 1,000 to be horse; New Jersey 2,000, of whom 800 to be horse; Maryland 2,000, of whom 600 to be horse; Virginia 2,000, of whom 600 to be horse.

Or, perhaps, it may be as eligible to call upon each State for such a number of troops, leaving to itself the proportion of horse and foot according to convenience. The militia called for to rendezvous at Carlisle, in Pennsylvania, and Cumberland Fort, in Virginia, on the 10th of September next. The law requires that previous to the using of force, a Proclamation shall issue, commanding the insurgents to disperse and return peaceably to their respective abodes within a limited time. This step must, of course, be taken.

The application of the force to be called out and other ulterior measures must depend on circumstances as they shall arise.

With the most perfect respect, &c.

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### HAMILTON TO WASHINGTON.

*Report on Opposition to Internal Duties.*

TREASURY DEPARTMENT, August 5th, 1794.

SIR:

The disagreeable crisis at which matters have lately arrived in some of the western counties of Pennsylvania, with regard to the law laying duties on spirits distilled within the United States, and on stills, seems to render proper a review of the circumstances which have attended those laws in that scene from their commencement to the present time, and of the conduct which has hitherto been observed on the part of the government, its motives and effect, in order to a better judgment of the measures necessary to be pursued in the existing emergency.

The opposition to those laws in the four most western counties of Pennsylvania, (Alleghany, Washington, Fayette, and Westmoreland,) commenced as early as they were known to have been passed. It has continued with different degrees of violence, in the different counties, and at different periods, but Washington has uniformly distinguished its resistance by a more excessive spirit than has appeared in the other counties, and seems to have

been chiefly instrumental in kindling and keeping alive the flame.

The opposition first manifested itself in the milder shape of the circulation of opinions unfavorable to the law, and calculated by the influence of public disesteem to discourage the accepting or holding of offices under it, or the complying with it by those who might be so disposed, to which was added the show of a discontinuance of the business of distilling.

These expedients were shortly after succeeded by private associations to *forbear* compliances with the law. But it was not long before these more negative modes of opposition were perceived to be likely to prove ineffectual. And in proportion as this was the case, and as the means of introducing the laws into operation were put into execution, the disposition to resistance became more turbulent and more inclined to adopt and practice violent expedients. The officers now began to experience marks of contempt and insult. Threats against them became more frequent and loud; and after some time these threats were ripened into *acts* of ill treatment and outrage.

These acts of violence were preceded by certain meetings of malcontent persons, who entered into resolutions calculated at once to confirm, inflame, and systematize the spirit of opposition.

The first of these meetings was holden at a place called Red Stone Old Fort, on the 27th of July, 1791, where it was concerted that county committees should be convened in the four counties, at the respective seats of justice therein. On the 23d of August following, one of these committees assembled in the county of Washington.

This meeting passed some intemperate resolutions, which were afterwards printed in the Pittsburgh Gazette, containing a strong censure on the law, declaring that any person *who had accepted or might accept an office under Congress, in order to carry it into effect, should be considered as inimical to the interests of the country;* and recommending to the citizens of Washington county to treat every person who had accepted or might thereafter accept any such office, with contempt, and absolutely to refuse all kind of communication or intercourse with the officers, and to withhold from them all aid, support, or comfort.

Not content with this vindictive proscription of those, who might esteem it their duty, in the capacity of officers, to aid in the execution of the constitutional laws of the land, the meeting proceeded to accumulate topics of crimination of the government, though foreign to each other, authorizing by this zeal for censure, a suspicion that they were actuated, not merely by the dislike of a particular law, but by a disposition to render the government itself unpopular and odious.

This meeting, in further prosecution of their plan, deputed three of their members to meet delegates from the counties of Westmoreland, Fayette, and Alleghany, on the first Tuesday of September following, for the purpose of expressing the sense of the people of those counties, in an address to the Legislature of the United States upon the subject of the excise law and *other grievances.*

Another meeting accordingly took place on the 7th of September, 1791, at Pittsburgh, in the county of Alleghany, at which there appeared persons in the character of delegates from the four western counties.

This meeting entered into resolutions more comprehensive in their objects, and not less inflammatory in their tendency, than those which had before passed the meeting in Washington.

Their resolutions contained severe censures, not only on the law which was the immediate subject of objection, but upon what they termed the exorbitant salaries of officers, the unreasonable interest of the public debt, the want of discrimination between original holders and transferees, and the institution of a national bank. The same unfriendly temper towards the government of the United States, which seemed to have led out of their way the meeting at Washington, appears to have produced a similar wandering in that at Pittsburgh.

A representation to Congress, and a remonstrance to the legislature of Pennsylvania against the law more particularly complained of, were prepared by this meeting, published together with the other proceedings in the Pittsburgh Gazette, and afterwards presented to the respective bodies to whom they were addressed.

These meetings, composed of very influential individuals, and conducted without moderation or prudence, are justly chargeable with the excesses which have been from time to time committed; serving to give consistency to an opposition which has at length matured to a point that threatens the foundations of the government and of the Union, unless speedily and effectually subdued.

On the 6th of the same month of September, the opposition broke out in an act of violence upon the person and property of Robert Johnson, collector of the revenues for the counties of Alleghany and Washington.

A party of men, armed and disguised, waylaid him at a place on Pidgeon Creek, in Washington county, seized, tarred and feathered him, cut off his hair, and deprived him of his horse, obliging him to travel on foot a considerable distance in that mortifying and painful situation.

The case was brought before the District Court of Pennsylvania, out of which processes issued against John Robertson, John Hamilton, and Thomas McComb, three of the persons concerned in the outrage.

The serving of these processes was confided by the then marshal, Clement Biddle, to his deputy, Joseph Fox, who in the month of October went into Alleghany county for the purpose of serving them.

The appearances and circumstances which Mr. Fox observed himself, in the course of his journey, and learnt afterwards, upon his arrival at Pittsburgh, had the effect of deterring him from the service of the processes, and unfortunately led to adopt the injudicious and fruitless expedient of sending them to the parties by a private messenger under cover.

The deputy's report to the marshal states a number of particulars evincing a considerable fermentation in the part of the country to which he was sent, and inducing a belief on his part, that he could not with safety have executed the processes. The marshal, transmitting this report to the district attorney, makes the following observations upon it: "I am sorry to add, that he (the deputy) found the people in general in the western part of

the State, and particularly beyond the Alleghany mountains, in such a ferment on account of the act of Congress for laying a duty on distilled spirits, and so much opposed to the execution of the said act, and from a variety of threats to himself personally, although he took the utmost precaution to conceal his errand, that he was not only convinced of the impossibility of serving the process, but that any attempt to effect it would have occasioned the most violent opposition from the greater part of the inhabitants; and he declares that if he had attempted it, he believes he should not have returned alive. I spared no expense nor pains to have the process of the court executed, and have not the least doubt that my deputy would have accomplished it, if it could have been done."

The reality of the danger to the deputy was countenanced by the opinion of General Neville, the inspector of the revenue, a man who before had given, and since has given, numerous proofs of a steady and firm temper. And what followed is a further confirmation of it. The person who had been sent with the processes was seized, whipped, tarred and feathered, and after having his money and horse taken from him, was blindfolded and tied in the woods, in which condition he remained five hours.

Very serious reflections naturally occurred upon this occasion. It seemed highly probable, from the issue of the experiment which had been made, that the ordinary course of civil process would be ineffectual for enforcing the execution of the law in the scene in question, and that a perseverance in this course might lead to a serious concussion. The law itself was still in the infancy of its operation, and far from established in other important portions of the Union. Prejudices against it had been industriously disseminated, misrepresentations diffused, misconceptions fostered. The legislature of the United States had not yet organized the means by which the Executive could come in aid of the Judiciary, when found incompetent to the execution of the laws. If neither of these impediments to a decisive exertion had existed, it was desirable, especially in a republican government, to avoid what is in such cases the ultimate resort, till all the milder means had been tried without success.

Under the united influence of these considerations, it appeared advisable to forbear urging coercive measures, until the laws had gone into more extensive operation, till further time for reflection and experience of its operation had served to correct false impressions and inspire greater moderation, and till the legislature had had an opportunity, by a revision of the law, to remove as far as possible objections, and to reinforce the provisions for securing its execution.

Other incidents occurred from time to time, which are further proofs of the very improper temper that prevailed among the inhabitants of the refractory counties.

Mr. Johnson was not the only officer who about the same period experienced outrage. Mr. Wells, collector of the revenue for Westmoreland and Fayette, was also ill-treated at Greensburgh and Union Town; nor were the outrages perpetrated confined to the officers; they extended to private citizens who only dared to show their respect for the laws of their country.

Some time in October, 1791, an unhappy man of the name of Wilson, a stranger in the county, and manifestly disordered in his intellects, imagining himself to be a collector of the revenue, or invested with some trust in relation to it, was so unlucky as to make inquiries concerning distillers who had entered their stills, giving out that he was to travel through the United States, to ascertain and report to Congress the number of stills, &c. This man was pursued by a party in disguise, taken out of his bed, carried about five miles back to a smith's shop, stripped of his clothes, which were afterwards burnt, and, after having been himself inhumanly burnt in several places with a heated iron, was tarred and feathered, and about daylight dismissed—naked, wounded, and otherwise in a very suffering condition. These particulars are communicated in a letter from the inspector of the revenue, of the 17th of November, who declares that he had then himself seen the unfortunate maniac, the abuse of whom, as he expresses it, exceeded description, and was sufficient to make human nature shudder. The affair is the more extraordinary, as persons of weight and consideration in that county are understood to have been actors in it, and as the symptoms of insanity

were, during the whole time of inflicting the punishment, apparent—the unhappy sufferer displaying the heroic fortitude of a man who conceived himself to be a martyr to the discharge of some important duty.

Not long after, a person of the name of Roseberry underwent the humiliating punishment of tarring and feathering, with some aggravations, for having in conversation hazarded the very natural and just but unpalatable remark, that the inhabitants of that county could not reasonably expect protection from a government whose laws they so strenuously opposed.

The audacity of the perpetrators of those excesses was so great, that an armed banditti ventured to seize and carry off two persons who were witnesses against the rioters in the case of Wilson, in order to prevent their giving testimony of the riot to a court then sitting, or about to sit.

Designs of personal violence against the inspector of the revenue himself, to force him to a resignation, were repeatedly attempted to be put in execution by armed parties, but by different circumstances were frustrated.

In the session of Congress which commenced in October, 1791, the law laying a duty on distilled spirits and stills came under the revision of Congress, as had been anticipated. By an act passed May 8th, 1792, during that session, material alterations were made in it. Among these the duty was reduced to a rate so moderate as to have silenced complaint on that head; and a new and very favorable alternative was given to the distiller, that of paying a monthly instead of a yearly rate, according to the capacity of his still, with liberty to take a license for the precise term which he should intend to work it, and to renew that license for a further term or terms. This amending act, in its progress through the legislature, engaged the particular attention of members who themselves were interested in distilleries, and of others who represented parts of the county in which the business of distilling was extensively carried on.

Objections were well considered, and great pains taken to obviate all such as had the semblance of reasonableness.

The effect has in a great measure corresponded with the

views of the legislature. Opposition has subsided in several districts where it before prevailed; and it was natural to entertain and not easy to abandon a hope that the same thing would by degrees have taken place in the four western counties of this State. But, notwithstanding some flattering appearances at particular junctures, and infinite pains by various expedients to produce the desirable issue, the hope entertained has never been realized, and is now at an end, as far as the ordinary means of executing laws are concerned.

The first law had left the number and positions of the officers of inspection, which were to be established in each district for receiving entries of stills, to the discretion of the supervisor. The second, to secure a due accommodation to distillers, provides peremptorily that there shall be one in each county.

The idea was immediately embraced, that it was a very important point in the scheme of opposition to the law, to prevent the establishment of offices in the respective counties. For this purpose the intimidation of well-disposed inhabitants was added to the plan of molesting and obstructing the officers by force or otherwise, as might be necessary. So effectually was the first point carried (the certain destruction of property, and the peril of life being involved), that it became almost impracticable to obtain suitable places for offices in some of the counties, and when obtained, it was found a matter of necessity, in almost every instance, to abandon them.

After much effort, the inspector of the revenue succeeded in procuring the house of William Faulkner, a captain in the army, for an office of inspection in the county of Washington. This took place in August, 1792. The office was attended by the inspector of the revenue in person, till prevented by the following incidents.

Captain Faulkner, being in pursuit of some deserters from the troops, was encountered by a number of people in the same neighborhood where Mr. Johnson had been ill-treated the preceding year, who reproached him with letting his house for an office of inspection, drew a knife upon him, threatened to scalp him, tar and feather him, and reduce his house and property to

ashes, if he did not solemnly promise to prevent the further use of his house for an office. Capt. Faulkner was induced to make the promise exacted, and, in consequence of the circumstance, wrote a letter to the inspector, dated the 20th of August, countermanding the permission for using his house, and the day following gave a public notice in the Pittsburgh Gazette, that the office of inspection should be no longer kept there.

At the same time another engine of opposition was in operation. Agreeable to a previous notification, there met at Pittsburgh, on the 21st of August, a number of persons styling themselves "A Meeting of sundry Inhabitants of the Western Counties of Pennsylvania."

This meeting entered into resolutions not less exceptionable than those of its predecessors. The preamble suggested that a tax on *spirituous liquors* is unjust in itself, and oppressive upon the poor,—that *internal taxes upon consumption*, must in the end destroy the liberties of every country in which they are introduced—that the law in question, from certain local circumstances which are specified, would bring immediate distress and ruin upon the western country, and concludes with the sentiment, that they think it their duty to persist in remonstrances to Congress, and in every other LEGAL measure, that may obstruct the operation of the LAW.

The resolutions then proceed, first, to appoint a committee to prepare and cause to be presented to Congress an address, stating objections to the law, and praying for its repeal. Secondly, to appoint committees of correspondence for Washington, Fayette, and Alleghany, charged to correspond together, and with such committee as should be appointed for the same purpose in the county of Westmoreland, or with any committees of a similar nature that might be appointed in other parts of the United States; and also, if found necessary, to call together either general meetings of the people, in their respective counties, or conferences of the several committees; and lastly, to declare that they will, in future, consider those who hold offices for the collection of the duty, as unworthy of their friendship, that they will have *no intercourse nor dealings with them*, will *withdraw from*

*them every assistance, withhold* all the *comforts of life which depend upon those duties that as men and fellow-citizens we owe to each other, and will upon all occasions treat them with contempt, earnestly* RECOMMENDING IT TO THE PEOPLE AT LARGE TO FOLLOW THE SAME LINE OF CONDUCT TOWARDS THEM.

The idea of pursuing *legal* measures to *obstruct* the *operation* of a *law*, needs little comment. Legal measures may be pursued to procure the repeal of a law, but to *obstruct its operation*, presents a contradiction in terms. The *operation*, or what is the same thing, the *execution* of a law, cannot be obstructed after it has been constitutionally enacted, without illegality and crime. The expression quoted is one of those phrases which can only be used to conceal a disorderly and culpable intention under forms that may escape the hold of the law.

Neither was it difficult to perceive, that the anathema pronounced against the officers of the revenue, placed them in a state of virtual outlawry, and operated as a signal to all those who were bold enough to encounter the guilt and the danger to violate both their lives and their properties.

The foregoing proceedings, as soon as known, were reported by the Secretary of the Treasury to the President. The President, on the 15th of September, 1792, issued a proclamation, "earnestly admonishing and exhorting all persons whom it might concern, to refrain and desist from all unlawful combinations and proceedings whatsoever, having for object, or tending to obstruct the operation of the laws aforesaid, inasmuch as all lawful ways and means would be put in execution for bringing to justice the infractors thereof, and securing obedience thereto: and moreover, charging and requiring all courts, magistrates and officers whom it might concern, according to the duties of their several offices, to exert the powers in them respectively vested by law, for the purposes aforesaid: thereby also enjoining and requiring all persons whomsoever, as they tendered the welfare of their country, the just and due authority of government, and the preservation of the public peace, to be aiding and assisting therein according to law;" and likewise directed that prosecutions might be instituted against the offenders in the cases, in

which the laws would support, and the requisite evidence could be obtained.

Pursuant to these instructions, the Attorney-General, in co-operation with the attorney of the district, attended a circuit court which was holden at Yorktown, in October, 1792, for the purpose of bringing forward prosecutions in the proper cases.

Collateral measures were taken to procure for this purpose the necessary evidence.

The supervisor of the revenue was sent into the opposing survey—to ascertain the real state of that survey—to obtain evidence of the persons who were concerned in the riot in Faulkner's case, and of those who composed the meeting at Pittsburgh, to uphold the confidence and encourage the perseverance of the officers acting under the law, and to induce, if possible, the inhabitants of that part of the survey which appeared least disinclined to come voluntarily into the law by arguments addressed to their sense of duty, and exhibiting the eventual dangers and mischiefs of resistance.

The mission of the supervisor had no other fruit than that of obtaining evidence of the persons who composed the meeting at Pittsburgh, and of two who were understood to be concerned in the riot; and a confirmation of the enmity which certain active and designing leaders had industriously infused into a large proportion of the inhabitants, not against the particular laws in question only, but of a more ancient date, against the government of the United States itself.

The then Attorney-General being of opinion that it was at best a doubtful point whether the proceedings of the meeting at Pittsburgh contained *indictable* matter, no prosecution was attempted against those who composed it, though, if the ground for proceeding against them had appeared to be firm, it is presumed that the truest policy would have dictated that course.

Indictments were preferred to the circuit court, and found against the two persons understood to have been concerned in the riot, and the usual measures were taken for carrying them into effect.

But it appearing afterwards from various representations sup-

ported by satisfactory testimony, that there had been some mistake as to the persons accused, justice and policy demanded that the prosecutions should be discontinued, which was accordingly done.

This issue of the business unavoidably defeated the attempt to establish examples of the punishment of persons who engaged in a violent resistance of the laws, and left the officers to struggle against the stream of resistance without the advantage of such examples.

The following plan, afterwards successively put in execution, was about this time digested, for carrying, if possible, the laws into effect without the necessity of recurring to force.

1. To prosecute delinquents in the cases in which it could be clearly done for non-compliance with the laws. 2. To intercept the markets for the surplus produce of the distilleries of the non-complying counties by seizing the spirits on their way to those markets in places where it could be effected without opposition. 3. By purchases through agents, for the use of the army, (instead of deriving the supply through contracts as formerly,) confining them to spirits, in respect to which there had been a compliance with the laws.

The motives to this plan speak for themselves. It aimed, besides the influence of penalties on delinquents, at making it the general interest of the distillers to comply with the laws, by interrupting the market for a very considerable surplus, and by at the same time confining the benefit of the large demand for public service to those who did their duty to the public, and furnishing through the means of payment in cash, that medium for paying the duties, the want of which was alleged to be a great difficulty in the way of compliance. But two circumstances conspired to counteract the success of the plan; one the necessity towards incurring the penalties of non-compliance, of there being an officer of inspection in each county, which was prevented in some of the counties by means of the intimidation practised for that purpose. Another, the non-extension of the law to the territory north-west of the Ohio, into which a large proportion of the surplus before mentioned was sent. A cure for these defects

could only come from the legislature. Accordingly, in the session which began in November, 1792, measures were taken for procuring a further revision of the laws. A bill containing amendments of those and other defects, was brought in; but it so happened, that this object, by reason of more urgent business, was deferred till towards the close of the session, and finally went off through the usual hurry of that period.

The continuance of the embarrassment incident to this state of things, naturally tended to diminish much of the efficacy of the plan which had been devised. Yet it was resolved, as far as legal provisions would bear out the officers, to pursue it with perseverance. There was ground to entertain hopes of its good effects; and it was certainly the most likely course which could have been adopted towards attaining the objects of the laws, by means short of force; evincing unequivocally the sincere disposition to avoid this painful resort, and the steady moderation which has characterized the measures of the government.

In pursuance of this plan, prosecutions were occasionally instituted in the mildest forms, seizures were made, as opportunities occurred; and purchases on public account were carried on.

It may be incidentally remarked, that these purchases were extended to other places; where, though the same disorders did not exist, it appeared advisable to facilitate the payment of the duties by this species of accommodation.

Nor was this plan, notwithstanding the deficiency of legal provision, which impeded its full execution, without corresponding effects. Symptoms from time to time appeared which authorized expectations, that with the aid, at another session, of the desired supplementary provisions, it was capable of accomplishing its end, if no extraordinary events occurred.

The opponents of the laws, not insensible of the tendency of that plan, nor of the defects in the laws which interfered with it, did not fail from time to time to pursue analogous modes of counteraction. The effort to frustrate the establishment of offices of inspection, in particular, was persisted in, and even increased. Means of intimidating officers and others, continued to be exerted.

In April, 1793, a party of armed men in disguise made an attack in the night upon the house of a collector of revenue, who resided in Fayette county, but he happening to be from home, they contented themselves with breaking open his house, threatening, terrifying, and abusing his family.

Warrants were issued for apprehending some of the rioters upon this occasion, by Isaac Mason and James Findlay, assistant judges of Fayette county, which were delivered to the sheriff of that county, who, it seems, refused to execute them, for which he has since been indicted.

This is at once an example of the disposition to support the laws of the Union, and of an opposite one, in the local officers of Pennsylvania, within the non-complying scene. But it is a truth too important not to be noticed, and too injurious not to be lamented, that the prevailing spirit of those officers has been either hostile or lukewarm to the execution of those laws; and that the weight of an *unfriendly official influence* has been one of the most serious obstacles with which they have had to struggle.

In June following, the inspector of the revenue was burnt in effigy in Alleghany county, at a place and on a day of some public election, with much display, in the presence of and without interruption from magistrates and other public officers.

On the night of the 22d of November, another party of men, some of them armed, and all in disguise, went to the house of the same collector of Fayette which had been visited in April, broke and entered it, and demanded a surrender of the officer's commission and official books. Upon his refusing to deliver them up, they presented pistols at him, and swore that if he did not comply they would instantly put him to death. At length a surrender of the commission and books were enforced. But not content with this, the rioters, before they departed, required of the officer that he should, within two weeks, publish his resignation on pain of another such visit and a destruction of his house.

Notwithstanding these excesses, the laws appeared during the latter periods of this year to be rather gaining ground. Several principal distillers, who had formerly held out, complied, and

others discovered a disposition to comply, which was only restrained by the fear of violence.

But these favorable circumstances served to beget alarm, among those who were determined, at all events, to prevent the quiet establishment of the laws. It soon appeared that they meditated, by fresh and greater excesses, to aim a still more effectual blow at them—to subdue the growing spirit of compliance, and to destroy entirely the organs of the laws, within that part of the country, by compelling all the officers to renounce their offices.

The last proceeding in the case of the collector of Fayette, was in this spirit.

In January, of the present year, further violences appear to have been perpetrated. William Richmond, who had given information against some of the rioters in the affair of WILSON, had his barn burnt with all the grain and hay which it contained —and the same thing happened to Robert Shawhair, a distiller, who had been among the first to comply with the law, and who had always spoken favorably of it. But in neither of these instances (which happened in the county of Alleghany), though the presumptions were violent, was any positive proof obtained.

The inspector of the revenue, in a letter of the 27th of February, writes, that he had received information that persons living near the dividing line of Alleghany and Washington, had thrown out threats of tarring and feathering one William Cochran, a complying distiller, of burning his distillery—and that it had also been given out, that in three weeks, there would not be a house standing in Alleghany county, of any person who had complied with the laws;—in consequence of which, he had been induced to pay a visit to several leading individuals in that quarter, as well to ascertain the truth of the information, as to endeavor to avert the attempt to execute such threats.

It appeared afterwards, that on his return home, he had been pursued by a collection of disorderly persons, threatening, as they went along, vengeance against him. On their way these men called at the house of James Kiddoe, who had recently com-

plied with the laws, broke into his still-house, fired several balls under his still, and scattered fire over and about the house.

Letters from the inspector in March, announce an increased activity in promoting opposition to the laws—frequent meetings to cement and extend the combinations against it—and among other means for this purpose, a plan of collecting a force to seize him, compel him to resign his commission, and detain him prisoner probably as a hostage.

In May and June new violences were committed. James Kiddoe, the person above mentioned, and William Cochran, another complying distiller, met with repeated injury to their property. Kiddoe had parts of his grist-mill at different times carried away, and Cochran suffered more material injuries—his still was destroyed, his saw-mill was rendered useless by the taking away of the saw, and his grist-mill so injured as to require to be repaired at considerable expense.

At the last visit, a note in writing was left, requiring him to publish what he had suffered in the Pittsburgh Gazette, on pain of another visit, in which he is threatened in figurative but intelligible terms, with the destruction of his property by fire; thus adding to the profligacy of doing wanton injuries to a fellow-citizen, the tyranny of compelling him to be the publisher of his wrongs.

June being the month for receiving annual entries of stills, endeavors were used to open offices in Westmoreland and Washington, where it had been hitherto found impracticable. With much pains and difficulty places were secured for the purpose. That in Westmoreland was repeatedly attacked in the night by armed men, who frequently fired upon it, but according to a report which has been made to this department, it was defended with so much courage and perseverance by John Wells, an auxiliary officer, and Philip Regan, the owner of the house, as to have been maintained during the remainder of the month.

That in Washington, after repeated attempts, was suppressed; the first attempt was confined to pulling down the sign of the office, and threats of future destruction; the second effected the object in the following mode: About twelve persons, armed and

painted black, in the night of the 6th of June, broke into the house of John Symn, where the office was kept, and after having treacherously seduced him to come down stairs and put himself in their power, by a promise of safety to himself and his house —they seized and tied him, threatened to hang him—took him to a retired spot in a neighboring wood, and there, after cutting off his hair, tarring and feathering him, swore him never again to allow the use of his house for an office; never to disclose their names, and never again to have any sort of agency in aid of the excise;—having done which, they bound him naked to a tree, and left him in that situation till morning, when he succeeded in extricating himself. Not content with this, the malcontents some days after made him another visit, pulled down part of his house, and put him in a situation to be obliged to become an exile from his home, and to find an asylum elsewhere.

During this time several of the distillers, who had made entries and benefited by them, refused the payment of the duties, actuated, no doubt, by various motives.

Indications of a plan to proceed against the inspector of the revenue, in the manner which has been before mentioned, continued. In a letter from him of the 10th of July, he observed that the threatened visit had not been made, though he had still reason to expect it.

In the session of Congress which began in December, 1793, a bill for making the amendments in the laws, which had been for some time desired, was brought in, and on the 5th of June last became a law.

It is not to be doubted that the different stages of this business were regularly notified to the malcontents, and that a conviction of the tendency of the amendments contemplated to effectuate the execution of the law, had matured the resolution to bring matters to a violent crisis.

The increasing energy of the opposition rendered it indispensable to meet the evil with proportionable decision. The idea of giving time for the law to extend itself in scenes where the dissatisfaction with it was the effect not of an improper spirit but of causes which were of a nature to yield to reason, reflec

tion and experience (which had constantly weighed in the estimate of the measures proper to be pursued), had had its effect in an extensive degree. The experiment, too, had been long enough tried to ascertain, that where resistance continued the root of the evil lay deep, and required measures of greater efficacy than had been pursued.

The laws had undergone repeated revisions of the legislative representatives of the Union, and had virtually received their repeated sanction, without even an attempt, as far as is now recollected or can be traced, to effect their repeal—affording an evidence of the general sense of the community in their favor. Complaints began to be loud from complying quarters, against the impropriety and injustice of suffering the laws to remain unexecuted in others.

Under the united influence of these considerations, there was no choice but to try the efficiency of the laws in prosecuting with vigor delinquents and offenders.

Processes issued against a number of non-complying distillers in the counties of Fayette and Alleghany, and indictments having been found at a circuit court, holden at Philadelphia in July last, against Robert Smilee and John McCulloch, two of the rioters in the attack which in November preceding had been made upon the house of a collector of the revenue in Fayette county, processes issued against them also, to bring them to trial, and, if guilty, to punishment.

The marshal of the district went in person to serve these processes. He executed the trust without interruption, though under many discouraging circumstances, in Fayette county; but while he was in the execution of it in Alleghany county—being then accompanied by the inspector of the revenue, to wit, on the 15th of July last—he was beset on the road by a party of from thirty to forty armed men, who, after much previous irregularity of conduct, finally fired upon him, but, as it happened, without injury either to him or to the inspector.

This attempt on the marshal was but the prelude of greater excesses.

About break of day, the 16th of July, in conformity with a

plan which seems to have been for some time entertained, and which probably was only accelerated by the coming of the marshal into the survey, an attack by about one hundred persons, armed with guns and other weapons, was made upon the house of the inspector, in the vicinity of Pittsburgh. The inspector, though alone, vigorously defended himself against the assailants, and obliged them to retreat without accomplishing their purpose.

Apprehending that the business would not terminate here, he made application, by letter, to the judges, generals of militia, and sheriff of the county, for protection. A reply to his application from John Wilkins, junior, and John Gibson, magistrates and militia officers, informed him, that the laws could not be executed, so as to afford him the protection to which he was entitled, owing to the too general combination of the people in that part of Pennsylvania to oppose the revenue law; adding, that they would take every step in their power to bring the rioters to justice, and would be glad to receive information of the individuals concerned in the attack upon his house, that prosecutions might be commenced against them; and expressing their sorrow that, should the POSSE COMITATUS of the county be ordered out in support of the civil authority, very few could be gotten that were not of the party of the rioters.

The day following, the insurgents reassembled with a considerable augmentation of numbers, amounting, as has been computed, to at least five hundred, and on the 17th of July renewed their attack upon the house of the inspector; who, in the interval had taken the precaution of calling to his aid a small detachment from the garrison of Fort Pitt, which, at the time of the attack, consisted of eleven men, who had been joined by Major Abraham Kirkpatrick, a friend and connection of the inspector.

There being scarcely a prospect of effectual defence against so large a body as then appeared, and as the inspector had every thing to apprehend for his person, if taken, it was judged advisable that he should withdraw from the house to a place of concealment—Major Kirkpatrick generously agreeing to remain with

the eleven men, in the intention, if practicable, to make a capitulation in favor of the property; if not, to defend it as long as possible.

A parley took place, under cover of a flag which was sent by the insurgents to the house, to demand that the inspector should come forth, renounce his office, and stipulate never again to accept office under the same laws. To this it was replied, that the inspector had left the house upon their first approach, and that the place to which he had retired was unknown. They then declared that they must have whatever related to his office. They were answered, that they might send persons, not exceeding six, to search the house and take away whatever papers they could find appertaining to the office. But, not satisfied with this, they insisted, unconditionally, that the armed men who were in the house for its defence should march out and ground their arms, which Major Kirkpatrick peremptorily refused, considering it, and representing it to them, as a proof of their design to destroy the property. This refusal put an end to the parley.

A brisk firing then ensued between the insurgents and those in the house, which, it is said, lasted for nearly an hour, till the assailants, having set fire to the neighboring and adjacent buildings, eight in number, the intenseness of the heat, and the danger of an immediate communication of the fire to the house, obliged Major Kirkpatrick and his small party to come out and surrender themselves. In the course of the firing, one of the insurgents was killed and several wounded, and three of the persons in the house were also wounded. The person killed is understood to have been the leader of the party, of the name of James McFarlane, then a major in the militia, formerly a lieutenant in the Pennsylvania line. The dwelling-house, after the surrender shared the fate of the other buildings, the whole of which were consumed to the ground. The loss of property to the inspector, upon this occasion, is estimated (and, as it is believed, with great moderation) at not less than three thousand pounds.

The marshal, Colonel Presley Neville, and several others, were taken by the insurgents going to the inspector's house. All, except the marshal and Colonel Neville, soon made their

escape; but these were carried off some distance from the place where the affray had happened, and detained till one or two o'clock the next morning. In the course of their detention, the marshal in particular suffered very severe and humiliating treatment, and was frequently in imminent danger of his life. Several of the party repeatedly presented their pieces at him, with every appearance of a design to assassinate him, from which they were with difficulty restrained by the efforts of a few, more humane and more prudent.

Nor could he obtain safety or liberty, but upon the condition of a promise, guarantied by Colonel Neville, that he would serve no other process on the west side of the Alleghany mountain. The alternative being immediate death, extorted from the marshal a compliance with this condition, notwithstanding the just sense of official dignity and the firmness of character which were witnessed by his conduct throughout the trying scenes he had experienced.

The insurgents, on the 18th, sent a deputation of two of their number (one a justice of the peace) to Pittsburgh, to require of the marshal a surrender of the processes in his possession, intimating that his compliance would satisfy the people and *add to his safety;* and also to demand of General Neville, in peremptory terms, the resignation of his office; threatening, in case of refusal, to attack the place, and take him by force—demands which both these officers did not hesitate to reject, as alike incompatible with their honor and their duty.

As it was well ascertained that no protection was to be expected from the magistrates or inhabitants of Pittsburgh, it became necessary to the safety both of the inspector and the marshal, to quit that place; and, as it was known that all the usual routes to Philadelphia were beset by the insurgents, they concluded to descend the Ohio, and proceed by a circuitous route to the seat of government, which they began to put in execution on the night of the 19th of July.

Information has also been received of a meeting of a considerable number of persons at a place called Mingo Creek Meeting-house, in the county of Washington, to consult about

the further measures which it might be advisable to pursue; that at this meeting a motion was made to approve and agree to support the proceedings which had taken place, until the excise law was repealed, and an act of oblivion passed; but that, instead of this, it had been agreed that the four western counties of Pennsylvania and the neighboring counties of Virginia should be invited to meet in a convention of delegates, on the 14th of the present month, at Parkinson's, on Mingo Creek, in the county of Washington, to take into consideration the situation of the western country, and concert such measures as should appear suited to the occasion.

It appears, moreover, that, on the 25th of July last, the mail of the United States, on the road from Pittsburgh to Philadelphia, was stopped by two armed men, who cut it open, and took out all the letters except those contained in one packet. These armed men, from all the circumstances which occurred, were manifestly acting on the part of the insurgents.

The declared object of the foregoing proceedings is to obstruct the execution and compel a repeal of the laws laying duties on spirits distilled within the United States, and upon stills. There is just cause to believe that this is connected with an indisposition, too general in that quarter, to share in the common burdens of the community, and with a wish, among some persons of influence, to embarrass the government. It is affirmed, by well-informed persons, to be a fact of notoriety, that the revenue laws of the State itself have always been either resisted or very defectively complied with in the same quarter.

With the most perfect respect, I have the honor to be, &c.

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### CABINET OPINION—HAMILTON AND KNOX TO WASHINGTON.

PHILADELPHIA, August 5, 1794.

SIR:

The draft of a proclamation and that of an instruction to the commissioners being both prepared, we take the liberty to sug-

gest that we think a meeting to-morrow morning, at such hour as may be convenient to the President, may be advisable. The Secretary of State and Attorney-General being out of town, we cannot consult them, but we will engage the attendance of the Attorney-General, provisionally, by nine o'clock, and if the President concludes on the meeting at that hour, he can have the Secretary of State apprised of it.

We have the honor to be, &c.

A. HAMILTON,
H. KNOX.

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### HAMILTON TO WASHINGTON.

August 6, 1794.

The Secretary of the Treasury presents his respects to the President, and sends him the statement of facts promised. The date is proposed to be two or three days before the proclamation, when it was in fact begun. There is a blank to be filled with a quotation from a former proclamation, which is not immediately at hand; but the blank will be filled before it goes to the press. If the President thinks the publication proper, and will be pleased to return the inclosed, the original draft being too much obliterated for the purpose, it shall be immediately begun in Dunlap's paper.

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### PROCLAMATION.

August 7, 1794.

*By the President of the United States of America.*

A PROCLAMATION.

*Whereas*, combinations to defeat the execution of the laws laying duties upon spirits distilled within the United States, and

upon stills, have, from the time of the commencement of those laws, existed in some of the western parts of Pennsylvania: and whereas, the said combinations, proceeding in a manner subversive equally of the just authority of government and of the rights of individuals, have hitherto effected their dangerous and criminal purpose, by the influence of certain irregular meetings, whose proceedings have tended to encourage and uphold the spirit of opposition, by misrepresentations of the laws, calculated to render them odious, by endeavors to deter those who might be so disposed from accepting offices under them, through fear of public resentment, and of injury to person and property, and to compel those who had accepted such offices, by actual violence to surrender or forbear the execution of them; by circulating vindictive menaces against all those who should otherwise directly or indirectly aid in the execution of the said laws, or who, yielding to the dictates of conscience and to a sense of obligation, should themselves comply therewith, by actually injuring and destroying the property of persons who were understood to have so complied; by inflicting cruel and humiliating punishments upon private citizens, for no other cause than that of appearing to be the friends of the laws; by intercepting the public officers on the highways, abusing, assaulting, and otherwise ill-treating them; by going to their houses in the night, gaining admittance by force, taking away their papers, and committing other outrages; employing for these unwarrantable purposes the agency of armed banditti, disguised in such manner as for the most part to escape discovery: and whereas, the endeavors of the legislature to obviate objections to the said laws, by lowering the duties, and by other alterations conducive to the convenience of those whom they immediately affect (though they have given satisfaction in other quarters), and the endeavors of the executive officers to conciliate a compliance with the laws, by explanations, by forbearance, and even by particular accommodations, founded on the suggestion of local considerations, have been disappointed of their effect by the machinations of persons, whose industry to excite resistance has increased with every appearance of a disposition among the people to relax in their op-

position and to acquiesce in the laws, insomuch that many persons in the said western parts of Pennsylvania have at length been hardy enough to perpetrate acts which I am advised amount to treason, being overt acts of levying war against the United States; the said persons having, on the 16th and 17th of July last past, proceeded in arms (on the second day amounting to several hundreds) to the house of John Neville, inspector of the revenue for the fourth survey of the district of Pennsylvania, having repeatedly attacked the said house, with the persons therein, wounding some of them; having seized David Lenox, marshal of the district of Pennsylvania, who previous thereto had been fired upon while in the execution of his duty by a party of armed men, detaining him for some time prisoner, till, for the preservation of his life, and the obtaining of his liberty, he found it necessary to enter into stipulations to forbear the execution of certain official duties touching processes issuing out of a court of the United States; and having finally obliged the said inspector of the said revenue and the said marshal, from considerations of personal safety, to fly from that part of the country, in order, by a circuitous route, to proceed to the seat of government; avowing, as the motives of these outrageous proceedings, an intention to prevent by force of arms, the execution of the said laws; to oblige the said inspector of the revenue to renounce his said office; to withstand, by open violence, the lawful authority of the government of the United States; and to compel thereby an alteration in the measures of the legislature, and a repeal of the laws aforesaid: and whereas, by a law of the United States, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," it is enacted, "that, whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by that act, the same being notified by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations,

and to cause the laws to be duly executed. And if the militia of a State where such combinations may happen shall refuse, or be insufficient, to suppress the same, it shall be lawful for the President, if the legislature of the United States shall not be in session, to call forth and employ such numbers of the militia of any other State or States most convenient thereto, as may be necessary; and the use of the militia, so to be called forth, may be continued, if necessary, until the expiration of thirty days after the commencement of the ensuing session: *provided always*, that, whenever it may be necessary in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, and previous thereto, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time:" And, whereas, James Wilson, an associate justice, on the 4th instant, by writing under his hand, did, from evidence which had been laid before him, notify to me that, "in the counties of Washington and Alleghany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district:" And whereas, it is in my judgment necessary, under the circumstances of the case, to take measures for calling forth the militia in order to suppress the combinations aforesaid, and to cause the laws to be duly executed, and I have accordingly determined so to do, feeling the deepest regret for the occasion, but withal the most solemn conviction that the essential interests of the Union demand it, that the very existence of government and the fundamental principles of social order are materially involved in the issue, and that the patriotism and firmness of all good citizens are seriously called upon, as occasions may require, to aid in the effectual suppression of so fatal a spirit.

Wherefore, and in pursuance of the proviso above recited, I, George Washington, President of the United States, do hereby command all persons, being insurgents as aforesaid, and all others whom it may concern, on or before the first day of September

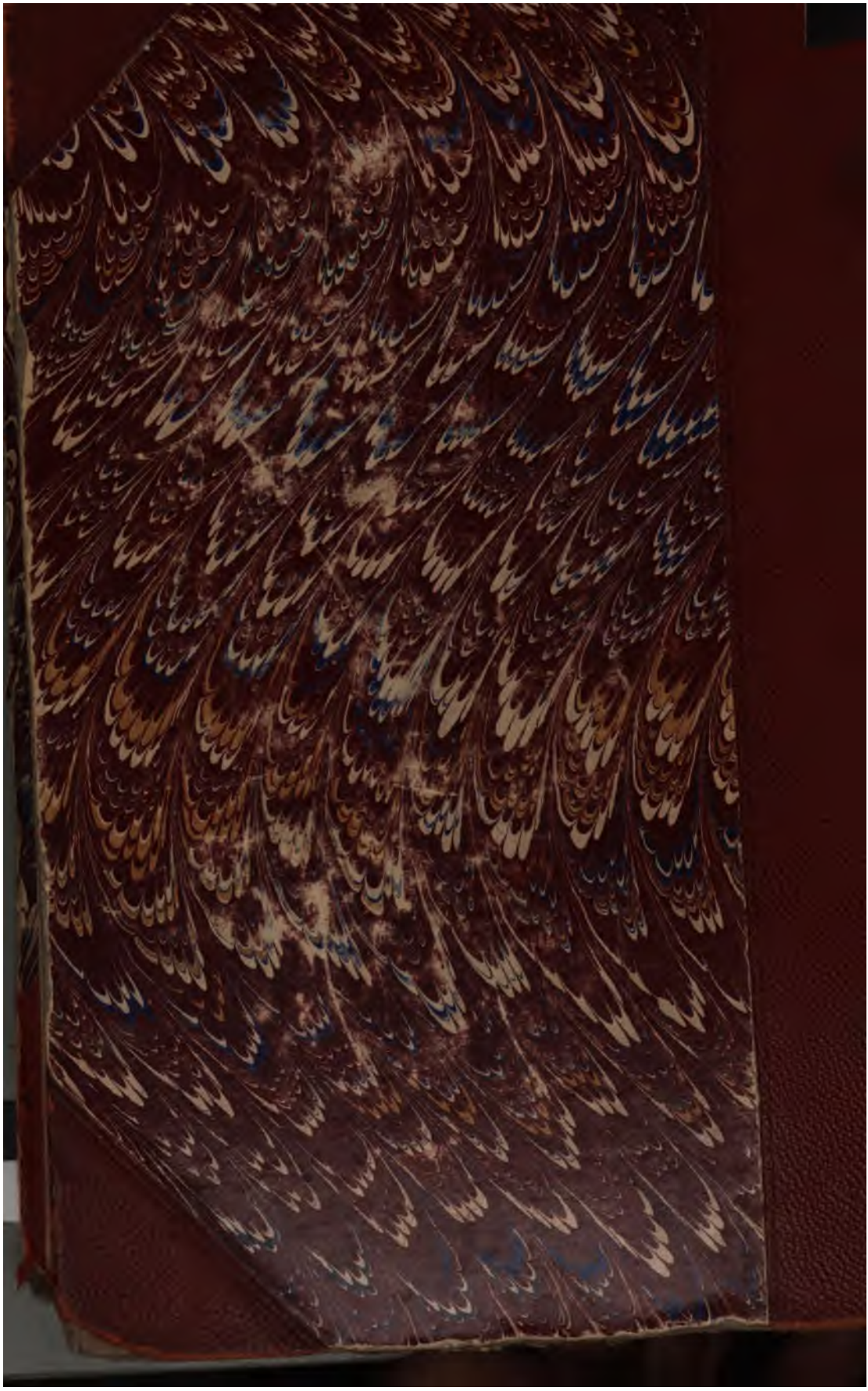
next, to disperse and retire peaceably to their respective abodes. And I do moreover warn all persons whomsoever, against aiding, abetting, or comfortiug the perpetrators of the aforesaid treasonable acts; and do require all officers and other citizens, according to their respective duties, and the laws of the land, to exert their utmost endeavors to prevent and suppress such dangerous proceedings.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand.

Done at the city of Philadelphia, the seventh day of August, one thousand seven hundred and ninety four, and of the [L. S.] independence of the United States of America the nineteenth.

GEO. WASHINGTON.

By the President,
EDMUND RANDOLPH.

END OF VOL. IV.

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